

**ORAL NARRATIVES
AND ABORIGINAL PASTS:
AN INTERDISCIPLINARY REVIEW
OF THE LITERATURE ON
ORAL TRADITIONS
AND ORAL HISTORIES**

**Research & Analysis
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**Indian and Northern
Affairs Canada**

**Affaires indiennes
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Canada

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AND ORAL HISTORIES**

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**A report submitted to the Department of Indian Affairs and Northern Development under
contract 95-205: Oral Tradition
April, 1996**

**The views expressed in this report are those of the author and not necessarily those of the
Department of Indian and Northern Affairs.**

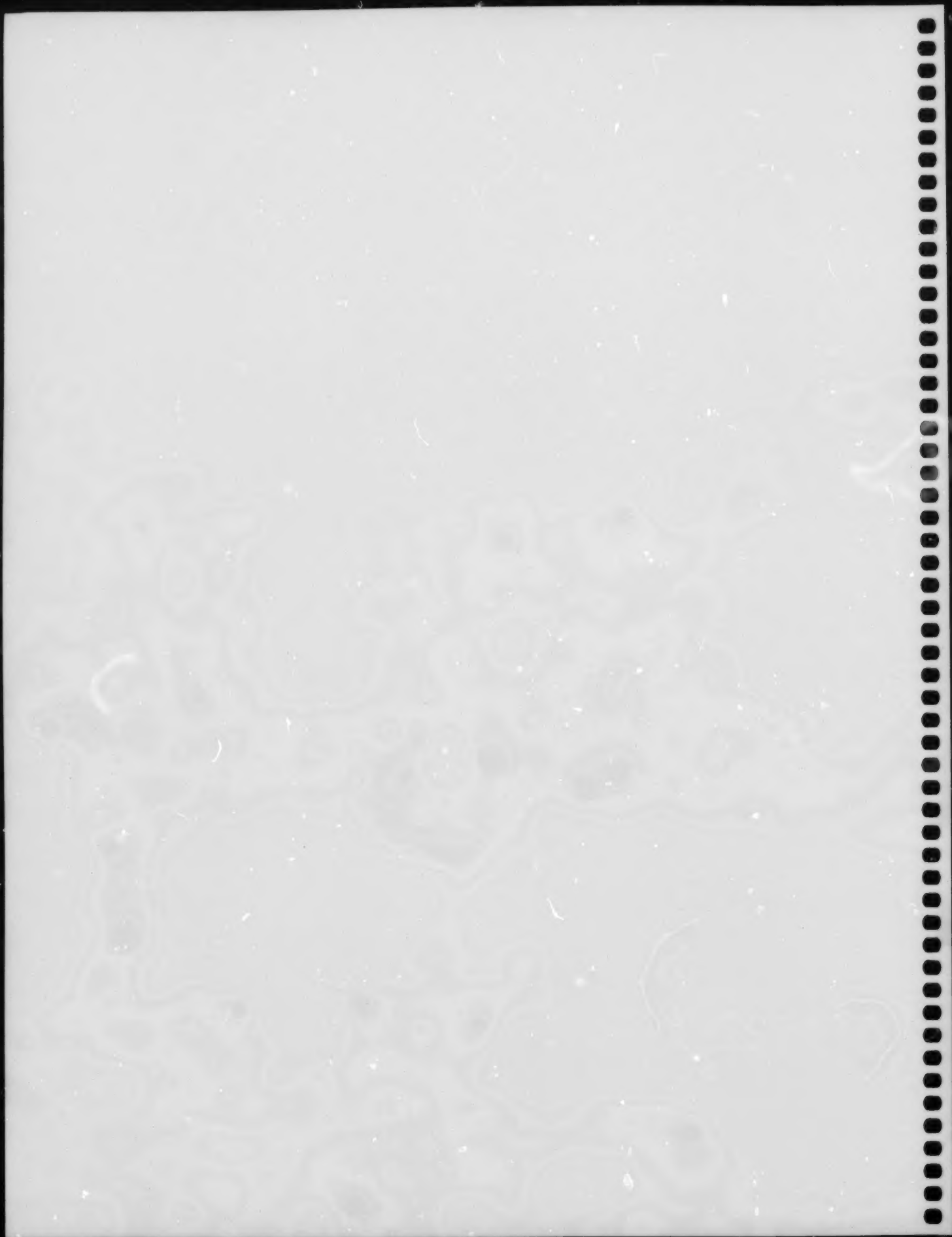


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1. INTRODUCTION

This research report is an interdisciplinary literature review prepared for Indian and Northern Affairs Canada. The objective is to compile and synthesize opinions which address a variety of issues relating to oral narratives about the past. The 50-day study commenced January 15, 1996 and ended April 5, 1996.

The need for the present study was stimulated by a recognition that the more than 70 historic treaties, which represent legally recognized solemn arrangements between various Aboriginal peoples and the British Colonial government or Canada, are frequently controversial. The written English texts are oftentimes subject to varying interpretations, partly because their vague and ambiguous language does not lend itself to straightforward application in the modern context. Treaty First Nations regard the treaties as living and evolving agreements and emphasize their spirit and intent. Moreover, occasionally it is claimed that oral promises were made by Crown representatives outside the written texts. Such oral dealings are alleged to have been transmitted by word-of-mouth to descendant generations, at which time they became oral traditions. Many of these traditions, which are now communicated to modern listeners, are not easily reconciled with written documentation and, hence, divergent positions on treaty interpretation have arisen.

While the original objective of the research was to illuminate "oral tradition" as it relates to the interpretation of treaties in the Canadian Aboriginal context, the approach taken here involves an examination on a much broader scale. As such, the research may be of use not only to those parties interested specifically in treaties (see especially Section 6.22 *infra*), but to anyone struggling with the complex matters relating to the (re)construction of the history of relations between Native peoples and newcomers in Canada. The literature compiled here will assist in the assessment of *any* oral narratives about the past which are summoned as evidence for or against a variety of claims.

Research was still in its early stages when it became apparent that a thorough scrutiny of all extant literature on the subject would be a massive undertaking and that, in 50 days, one could only hope to compile a representative sample of scholarly opinion. I note with interest that 35 years have elapsed since such a project was first contemplated. Even then--prior to the information explosion--Professor Richard Dorson (the preeminent authority on the subject at that time), was impressed with how much had been written:

As a folklorist trained in history, I have long been intrigued by the question of the historical validity and ethnocentric bias in oral history. In 1961 the Indian Land Claims Commission of the Department of Justice in the United States Government gave me a research contract to investigate this matter. Their interest lay in determining how much credence they should place in the arguments to land title by Indian claimants based entirely or largely on father to son oral tradition. As I pursued the widening circles of research scholarship that dealt with traditional history, I soon discovered that a host of scholarly disciplines had fought bitter intradisciplinary battles over the issue. So many scholars had a stake in the outcome: not merely folklorists and mythologists, but archaeologists, anthropologists, classicists, geologists, historians of every hue, students of religions, the Africanist, the medievalist, the Celticist--and one could keep on adding specialists. [Dorson 1973:7]

Unfortunately, Dorson's unpublished report is no longer accessible and I was obliged to start anew. Most of the useful literature has, in any event, been written in the three and a half decades since Dorson's pioneering efforts. A bibliography compiled by Wasserman (1975), while useful, tends to focus on non-Aboriginal oral history rather than Aboriginal oral tradition and is also more than two decades old.

Although I am an independent scholar with no strong, *a priori* commitment to generalizations about the nature of oral narratives, I hasten to add that complete objectivity is a chimera and that the approach of every researcher is embedded in social process. As a professional anthropologist trained in a variety of methodologies for (re)constructing the past, I do not maintain strict fidelity to any philosophical extreme (e.g., positivism or relativism), but recognize merits in a variety of positions. In selecting and transcribing opinions from the scholarly literature, I have tried to be fair to all sides in contemporary academic debate. If, ultimately, my recommendations tend to favour one position over another, it is because I recognize that I am advising decision makers who are interested in useful guidelines. In the "real world" of conflict resolution practical considerations necessarily must displace the luxury we have in academia of debating a plurality of viewpoints and, in the spirit of postmodern inquiry, accepting them all as equal voices until we are mired in our own collective and debilitating nihilism. My opinions and conclusions, although based on an extensive immersion in the literature, are, of course, my own and do not necessarily reflect the positions of DIAND.

2. RESEARCH QUESTIONS

The Department of Indian Affairs and Northern Development requested that I undertake research to answer the following questions:

1. How are oral tradition and oral history defined in the literature? Does the literature distinguish between these and modern oral accounts?
2. Based on a secondary source review, what are the issues which surround the use of North American oral tradition in mainstream history [and anthropology, as well as related disciplines]?
3. Based on a review of contemporary and modern oral accounts of historical events, how consistent do oral traditions remain over time? What factors contribute to the changing expressions of oral tradition?
4. What research (or secondary source material) has dealt with oral tradition in a legal perspective?
5. Based on a list of summarized court cases which deal with the issue of oral tradition and on a secondary source review, what are the factors that limit, and/or enhance, the utility of oral tradition in the Canadian legal system?

3. METHODOLOGY

The research was conducted by following a systematic procedure:

- (1) a search of my personal, 6,000-volume library of anthropological and historical literature;
- (2) an electronic search of the University of Toronto's massive library system;
- (3) locating and photocopying all articles and book excerpts relating to the research questions;
- (4) scrutiny of all references cited in the collected source materials and repetition of step 3 until time constraints precluded further searches;
- (5) preparation of an alphabetized filing system for all collected source materials;
- (6) compilation of an electronic bibliography of all collected source materials;
- (7) perusal of each article and book extract;
- (8) computerized transcription of opinions expressed by the various authors under preliminary sub-headings; and

- (9) synthesis of opinions in the form of short answers to the research questions.

4. OUTPUT

A total of 168 books and articles were identified as being germane or relevant to the research questions. A complete bibliography of these sources is provided in Section 7 (*infra*). This bibliography does not include court cases which are listed separately in Section 6.21.

Section 6 provides nearly 900 verbatim extracts from the 168 sources. My distillation of the opinions expressed in these extracts, as well as my own opinions, are provided in the form of my answers (Section 5) to the research questions.

5. ANSWERS TO THE RESEARCH QUESTIONS

For the most part, my answers are based on an assessment of the opinions transcribed in Section 6 *infra*. Readers should consult the latter to gain a better appreciation of the debates in the scholarly literature and to draw their own conclusions should this be preferable.

5.1 QUESTION 1

How are oral tradition and oral history defined in the literature? Does the literature distinguish between these and modern oral accounts?

For definitions of oral tradition the reader is referred to Section 6.1. For definitions of oral history see Section 6.2. The definitions vary depending on the disciplinary affiliation and problem orientation of the researcher. Some scholars reject any and all formal definitions, while others have constructed elaborate taxonomies with dozens of sub-divisions. Although there is no universally-accepted set of meanings, the short and simple answer to the first part of Question 1 may be expressed as follows:

Oral traditions are narratives transmitted by word of mouth over at least a generation. Oral histories are recollections of individuals who were eyewitnesses or had personal experience with events occurring within their lifetime.

Occasionally, the term "oral tradition" is used to describe a process of communication, rather than the corpus of communicated messages. Similarly, many scholars recognize oral history as a method or technique of collecting

information about the past through the use of interviews. There are professional organizations, institutes and journals devoted to the collection and study of (usually non-Aboriginal) "oral history", and there are specialists who are described as "oral historians." Nevertheless, there are sound epistemological and practical reasons for restricting the definition of oral history (and also of oral tradition) to content, genre of source, or product, rather than method or process. In my view, there is no such thing as oral history as a separate discipline; but there are oral histories and traditions which, together with other evidence, may be used by historians, anthropologists, and others in their efforts to understand past events.

Although most scholars distinguish between oral history and oral traditions, not all do. The objection to a dichotomy comes, in the main, from those who recognize that a single oral narrative may include traditions, eyewitness accounts, hearsay and other forms of evidence, and that narrators may conflate various pasts or a past with a present. While this does indeed happen, I believe the critics offer insufficient grounds for rejecting a widely accepted distinction. Classifications need not always be empirically tenable in order to serve as heuristic devices in scholarly research. Besides, most people do, in fact, distinguish between those events which they, themselves, witnessed or experienced and those which their ancestors told them happened in a more distant past.

As for the second part of question #1, *all* oral narratives related in the present are "modern oral accounts," irrespective of when the events they purport to describe actually took place. Depending on their content, such accounts fall under the rubrics "oral history" or "oral tradition" as defined *supra*.

Ultimately, definitions and distinctions only become important if and when particular accounts are assessed and weighed as possible evidence of past events. Until careful analysis is completed, it may be more appropriate to use general terms like "oral narratives," "oral communications," "orally communicated information," or "oral performances."

Finally, it must be kept in mind that, aside from history and tradition, many other terms are used with reference to oral narratives. For details, readers should refer to the definitions of life history (Section 6.3), reminiscences (Section 6.4), commentaries (Section 6.5), testimony or evidence (Section 6.6), oral literature (Section 6.7), folk history (Section 6.8), folklore, myth, and legend (Section 6.9), and ethnohistory (Section 6.10).

5.2 QUESTION 2

Based on a secondary source review, what are the issues which surround

the use of North American oral tradition in mainstream history [and anthropology, as well as related disciplines]?

A wide variety of interrelated issues are debated in the literature (for opinions see Sections 6.11 - 6.14). I have organized important opinions under the general headings: Contested Pasts, Orality and Literacy, The Feedback Effect and the Present Past. Additional issues are addressed in my response to Question 3 (Section 5.3).

5.2.1 Contested Pasts (for opinions see Section 6.11)

Historical objectivism, which has been a dominant paradigm in North American historiography, has been challenged as problematic by a critical movement loosely organized under the rubric "postmodernism." This movement has surprisingly little positive to offer, beyond the important reaffirmation that there are multiple locations of historical knowledge and the axiom that all pasts are culturally mediated. It is essentially a form of relativism which holds that truth is perspectival and that there is no neutral, value-free, or objective history. It recognizes that the process of knowledge production is culturally mediated and that "expert" texts about the past which are written by historians, anthropologists and members of other academic guilds are socially constituted as authority and should have no privileged claims on universal truth. This has generated questions about who is authorized to tell the story of the past, who controls the authenticization process, and how various "voices" are included and excluded.

The relativist or postmodernist critique of historical objectivism has important implications for our consideration of oral narratives about the past. It is argued that such narratives help to democratize a history that is otherwise dominated by documents generated by or for elites. Oral narratives compete with academic reconstructions for legitimacy and are used as a challenge to hegemonic history. Reclaiming their "voice" from "expert" academics is a means by which Aboriginal peoples can assert social power and claim rights.

While radical proponents of both objectivist and relativist creeds may be found, most mainstream scholars tend to fall somewhere between the extremes. In other words, while the lessons of postmodernism are regarded as generally useful, there remains an attraction to some of the certainties offered by the older paradigm. Few still cling to a nineteenth-century positivism, but few will go so far as to concede that all history is fiction.

Paradoxically, the postmodernist argument that an Aboriginal voice is just as valid as an academic voice is sometimes construed to imply that an Aboriginal voice is intrinsically more valid. For example, it is argued that by changing the historical interpreter from an external "expert" to an Aboriginal person "the dichotomy between supposedly non-historical Aboriginal societies and 'progressive' European societies will be undone" (Fortune 1993:92). This turns into complete nonsense when one recalls that it was non-Aboriginal anthropologists who demonstrated conclusively that Native cultures were not static prior to European contact and who offered the most vocal challenge to the ethnocentrism of nineteenth-century evolutionism. I agree with Bruce Trigger that no scientific or moral arguments can be advanced for restricting the study of history to members of the group being investigated. The idea that people know best about their own past is, of course, a monstrous fallacy.

The fashionable supposition that history as told by outsiders is inherently biased, politically motivated, and a hegemonic assertion of dominance and power over those whose past is being told, must be rejected as untenable. After all, there are ample instances of stories told that are to the teller's disadvantage. To cite only one example, the sad and painful events surrounding the infamous Cherokee Removal exodus is known to the world almost exclusively from the diaries of white soldiers and other non-Aboriginal eyewitnesses. The absence of Cherokee oral traditions about these traumatic events in their own, relatively recent history does not mean that they did not happen or should be considered non-events. In fact, given that the recitation of past wrongs is an effective means to political gain, it seems unlikely that the Cherokee would refuse to employ this "history," even though it originated in the discourse of their oppressors. Similarly, western science (in the form of archaeological evidence) is regarded as favourable to the aspirations of the Northern Cheyenne and has been used by them as a tool for resistance.

It need hardly be emphasized that, when it comes to the contact between Native peoples and newcomers in the Canadian context, there can be no distinctions between Aboriginal and non-Aboriginal histories since both, by definition, have become part of a single historical trajectory. In my opinion, contested pasts are best resolved (if they need be resolved), not by separating histories based on oral narratives from histories based on written documents, but by recognizing that Aboriginal/ academic or orality/literacy dichotomies are counterproductive. I address this issue in greater detail in the following sections.

5.2.2 Orality and Literacy (for opinions see Section 6.12)

One of the issues that surfaces repeatedly in the literature concerns the relationship between oral and written sources. This relationship is often couched in terms of similarities and differences.

An oral tradition is a perpetual text-making and re-making which, once recorded in print, becomes frozen as a slice or representation of a moment in time. At that point a dynamic oration turns into a static text and the tradition may lose congruence with the changing needs of society. For this reason, it is occasionally argued that oral traditions should never be reduced to writing--that, by definition, they must exist as oral performance. Yet, temporarily "freezing" an oral tradition (and its context) by recording it on tape or in writing does not preclude continued orality, and remains the only practical means of subjecting a tradition to scrutiny, assessing its reliability or validity, and comparing it with other evidence.

If an oral narrative is offered as an insight into a past event that is under dispute (such as a treaty), it no longer serves only intra-group social or psychological functions, but is necessarily transformed into *evidence* used in support of a position in an inter-group conflict. The oral evidence can be identical, supplementary, complementary, or contradictory with respect to other (usually written) evidence; the only way to find out is to render all evidence comparable. Reducing a dynamic orality to static print for the purpose of fixing content and context for comparison is the most common method of producing comparable evidence; after all, most documents, including those generated within so-called "literate" societies, are orality recorded.

The fact that oral narratives must be "frozen" to be analyzed as evidence suggests that, in at least one important respect, they are different from written sources. Scholars have noted that a written document, while often biased in its original formulation, at least becomes permanent as it is archived and "subtracted from time." The original biases may be compounded by the interpretations of the historian who makes use of the document, but at least the content remains unaltered and may be interpreted by other parties. An oral tradition has additional problems. A primary or "original" version (if such existed to begin with) is lost to modern scrutiny since it is replaced by later versions. What is left may be multiple layers of interpretations which have accumulated over time and a content that may only vaguely resemble an "original" oration.

There is general agreement that oral narratives must be placed in the context of a total speech event. When, for example, oral narratives are

collected in the form of an interview or other speech-counterspeech setting (such as examination on the witness stand), the results are a joint intellectual product of several parties. Hence, the questions are as important as the answers. Scholars have also stressed that, since performance is an important part of orality, oral texts cannot be divorced from either the orator or his/her audience. Some even argue that in literate traditions the meaning is the text, while in oral traditions the meaning is in the context. However, since a capable historian will always seek to contextualize documentary materials, I do not see how a text/context dichotomy can serve as a basis for differentiating literate and oral traditions. Context is important irrespective of genre.

I have been far more impressed with similarities, than with differences between oral and written narratives. Both types of sources are selective characterizations of events, both are subject to bias, and both can easily perpetuate fictions. Ironically, the understanding that printed sources can be exceedingly inaccurate has been partly stimulated by a recognition that these are often the records of inaccurate oral narratives.

More important, perhaps, is the growing awareness that orality and literacy form a continuum rather than a dichotomy, and that in modern times they rarely function independently. Even prior to the advent of literacy, many Aboriginal groups were not strictly "oral", but depended on mnemonic aids, such as birch bark scrolls, wampum belts, and condolence canes. Today, anyone who continues to generalize about the orality of Aboriginal peoples has apparently not been exposed to the significant corpus of documentary materials (books, articles, newspapers, etc.) written and published by Native peoples in this country.

By the same token, people in literate traditions are also participants in an oral world and, hence, can appreciate oral traditions as more than an exotic communications genre. For example, while I may assign readings for my students, much of the learning acquired in a course is communicated orally in the form of lectures which I seldom prepare in written form. In fact, much of the communication in my profession occurs orally; hence, the common parenthetical insertion "personal communication" in our published texts.

5.2.3 The Feedback Effect (for opinions see Section 6.13)

In light of the fact that modern oral narrations occur in a literate-technological matrix, it is not surprising to find that written documents are incorporated into oral traditions. I have documented this in my own work among Iroquoians (von Gernet 1995) and it is confirmed by researchers in

other fields. This has profound implications, not only because it once again undermines resolute distinctions between oral and literate traditions, but because it affects the assessment of traditions as independent evidence. Since this "feedback effect" is known to be a widespread phenomenon, oral traditions must be subjected to careful scrutiny in the same way that secondary source materials are analyzed for their dependence on previous primary, written materials.

5.2.4 The Present Past (for opinions see Section 6.14)

Most historians understand that each new documentary history is written to serve some present need. Many scholars also appreciate that oral narratives are retrospective, in the sense that the past is characterized in terms that are meaningful in the present. Oral traditions may refer to the past, but they are often told to make statements about the present. Much like written histories, they are interpretations of the past which change as social and political circumstances change. They involve a dialectic in which individuals use insights from current events to help make sense of the past. These are not new revelations, inspired by a trendy postmodernist argument, but have long been acknowledged as axiomatic by historians and anthropologists.

While it is still sometimes argued that the past makes the present, more often it is conceded that the present creates the past by selectively appropriating, remembering, forgetting, or inventing. Where there is no apparent history it invariably is created. Traditions which appear or claim to be ancient, frequently turn out to be recent or invented. Invented traditions usually attempt to establish continuity with a real or imagined past. They are used as political symbols which seek to legitimize group membership, institutions, status, beliefs, or behaviour. It is well known that people resist rapid and imposed change by creating and mobilising memories of unchanging and harmonious pasts. This phenomenon has been documented in many different societies and is common among both Aboriginal and non-Aboriginal peoples.

Scholars have noted that discourses about national histories are often imbued with invented traditions. Indeed, oral narratives, much like their written counterparts, are often employed to help foster national identities. In the late nineteenth century, the Lumbee of North Carolina invented a tradition that alleged they were the descendants of Algonquians who had intermarried with the lost English colonists of sixteenth-century Roanoke. This origin tradition was the only means by which these people could distinguish themselves from other inhabitants of North Carolina. They are now recognized as "Indians" only because they succeeded in convincing

their non-Aboriginal neighbours that their self-identification was embedded in history.

As Roger Keesing notes, some oral genres politicize material by casting rival groups in unfavourable light and bathing the raconteur's own group in glory. One need only recall the case of the dramatically different Tolowa and white versions of the Burnt Ranch massacre of 1853. The fact of the matter is that contradictory accounts tend to emerge whenever there is contact between cultures. Such differences in the understanding of past events is by no means confined to divergences between Aboriginal and non-Aboriginal peoples. For example, the Nomlaki and Yuki of California tell completely different oral traditions about past inter-tribal hostilities between them. Similarly, Wabanaki traditions about how they outwitted the Mohawks function to give them a patriotic spirit. A surprising number of oral traditions have been recorded in the context of conflict resolution and there is no reason to believe that such a phenomenon was less common in the past. Oral traditions are and were often used as tools in conflict; as Jan Vansina said, "one fights with tradition." Elites develop a lore to justify their hegemony, while non-elites create pasts to explain their lack of control.

All of this suggests that oral narratives are social actions which cannot be detached from the beliefs of the orators. Saying that oral narratives involve people's beliefs about the past is certainly different from asserting that they are of the past. It should be noted that, for many modern historians and anthropologists, what people imagine or believe might have happened is just as important as what did happen, because historically "untrue" statements are still psychologically or sociologically "true." Since people act in accordance with what they believe is true, this is of great interest to the social scientist.

Some anthropologists go so far as to reject the notion that any evidence about the past can be winnowed from Aboriginal oral narratives, since such traditions are not containers of "facts" to begin with. Instead, they advocate an approach that examines how the past is culturally constituted and how "facts" are culturally mediated in Aboriginal settings. Although some of my colleagues may leave the impression that the latter is or should be the approach adopted by all anthropologists, this is a matter of research interest and emphasis. It parallels an old debate between advocates of an "emic" folk history and an "etic" ethnohistory (see Sections 6.8 and 6.10).

As an anthropologist, I can assure the reader that many of my colleagues are, in fact, interested in winnowing historical "facts" (in a western sense)

from oral narratives, and are not merely interested in studying what Aboriginal peoples believe(d) about their past. A good example is Helm and Gillespie's work among Dogrib elders. These researchers found that one class of narratives in Dogrib oral tradition does, in fact, embody historical realities about events in the early nineteenth century and resembles a western-style historicity. It should also be recalled that many Aboriginal peoples themselves have typologies within their own narrative genres. A good example is the distinction the Cree make between *atiukan* (myths about a remote past) and *tipachiman* (true stories about a more recent past).

Those anthropologists who assert that oral traditions have no evidential value, claim that one cannot distinguish between what "actually" happened and what people think should have happened in order for the past to conform to the present. Others, however, point out that each generation does not invent a brand new past with entirely new traditions. Rather, there is a process of selection in which some materials are discarded, some are retained, and some are re-interpreted. In other words, infinite variability in invented traditions may be partly constrained by previous traditions. The claim that traditions exist only for the present is an untenable exaggeration, for it fails to account for cultural continuities.

Having reviewed the literature, I can only conclude that just as it is naive to assume that oral traditions are necessarily about the past, it is equally inappropriate to suggest that such traditions, by virtue of being told in the present, are always devoid of any valid evidence about an "actual" past. Once again, sweeping generalizations must be supplanted by careful, case-by-case inquiries. This can only be accomplished with standard scholarly techniques already commonplace in the analysis of documentary materials.

5.3 QUESTION 3

Based on a review of contemporary and modern oral accounts of historical events, how consistent do oral traditions remain over time? What factors contribute to the changing expressions of oral tradition?

In response to these questions, I have assembled opinions under the following broad categories: Memory, Reliability and Validity, Testing, Long-term Traditions, and Short-term Traditions. I summarize each in turn before offering a short answer in Section 5.3.6.

5.3.1 Memory (see opinions in Section 6.15)

No study of oral traditions allegedly describing events of the past can avoid a discussion of human memory. The notion that human memory is wholly unreliable has been disproved by research that suggests some people have a remarkable propensity to accurately recollect events of long ago. This propensity is not limited to members of so-called "oral" societies and, contrary to common belief, there is no evidence that people who depend more on orality have inherently better memories.

Yet, there may be something to the Chinese proverb that "the most retentive memory is weaker than the palest ink." Recent studies have cast doubt even on the popular assumption that eyewitness accounts about relatively recent events are reliable. More importantly, it is now generally acknowledged that memory is not pure recall, but is refracted through subsequent experience and contexts of social dynamics. In essence, memory is a construction in which past events are recreated anew rather than reproduced or retrieved from some type of storage system.

"Accurate" oral traditions, unlike oral histories (see definitions in Section 5.1 *supra*), depend not only on the ability of an individual to combat memory decay and refraction, but also on the unerring transmission from one individual to another. Oral traditions are essentially memories of memories. Unfortunately, experimental work has shown that significant changes take place during the transmission of oral information between humans.

It has been suggested that recall is facilitated when a memory involves a significant event that meets a social need. What then, are we to make of the Nez Percé who, by the late nineteenth century, could no longer remember how and when they first acquired horses--a momentous event that is known to have occurred only a century earlier and led to a radical transformation from a pedestrian to an equestrian culture?

The concession that some people have remarkably accurate recollections must be tempered with an understanding of the fallibility and selectivity of individual and collective memory. This, in turn, leads to a wider debate on the reliability and validity of oral traditions.

5.3.2 Reliability and Validity (opinions in Section 6.16)

The debate about the reliability and validity of oral traditions mirrors the tension between a positivistic historical objectivism on the one hand, and

an anti-historical relativism on the other. The debate also reflects divergent views about whether oral traditions are about the past or the present.

The numerous opinions I have transcribed fall along a continuum. At the one end are those like Robert Lowie whose intransigence on the issue is evident in his oft-quoted dictum that one "cannot attach to oral traditions any historical value whatsoever under any conditions whatsoever." At the other end are those who regard all orally communicated pasts as rooted in historical fact. The majority fall somewhere between these positions.

I have found it useful to distinguish between reliability and validity, although these are not always specifically defined. Generally, the former refers to the consistency with which an oral narrative is told over time or among different tellers. The latter refers to the degree of conformity between the narrative of an event and the event as recorded by other primary sources such as written documents. Hence, an oral tradition can be reliable but invalid from a western positivistic viewpoint.

5.3.3 Testing (see opinions in Section 6.17)

If and when oral narratives are used as evidence in the western historical sense, they must be subjected to testing. Had scholars suspended normal critical canons of historical research, the *Walam olum* of the Delaware or Lenape Indians may still be regarded as evidence of prehistoric migrations, rather than the recent invention or forgery that it is.

Tests can be classified into two basic types: internal and external. Internal tests evaluate a narrative in terms of its own self-consistency. This may, for example, involve an identification of folklore themes, cross-checking and collation of multiple versions, and allowance for individual or group bias. External tests compare the narrative with other evidence such as written accounts, linguistic reconstructions or archaeological data. The opinions transcribed in Section 6.17 offer numerous useful suggestions.

Although testing is essential, there are many pitfalls. For example, the fact that people try to ensure verbatim replication and strongly believe that their accounts are accurate, does not, of course, mean that they are. Even consistency of accounts over time or among different contemporary informants, while possibly a measure of reliability, is by no means a guarantee of validity or conformity with empirical reality. Diffusion often renders different accounts dependent rather than independent. Some scholars even suggest that, in the case of oral traditions, converging evidence must be regarded as dependent until proven otherwise.

Moreover, groups, as well as individuals, can sustain falsehoods, and consistency may have more to do with shared cultural and psychological predispositions than with accurate recollection.

The Creeks, Micmacs, Wyandots, and Lenapees all have oral traditions of a treaty allegedly made with a certain white man who offered a fair price for as much land as could be covered with a cowhide. Once the agreement was made, the white man tricked the Indians by cutting the cowhide into strips which he spread over a much wider area. Although the details of the story appear to be confirmed by the variety of apparently independent narrations, it is highly unlikely that the event actually took place. Among other things, the same story is told in Turkey, Iceland, France, Estonia, Greece, Egypt and Siberia. Folklorists have indexed it as Type 2400 and Motif K185.1, "Deceptive land purchase: ox-hide measure." All of these people may, in fact, have experienced deceptive land purchases at some time in the past. Yet, only by subjecting their oral narrative to in-depth scrutiny and comparison is it possible to assess how much of this may be historically "true" and how much of it is psychologically "true."

Testing Aboriginal oral narratives by comparing them with evidence derived from western scholarship does not necessarily introduce a prejudice against those who offer the oral material as evidence. In fact, comparing oral and written materials is a process of testing both types of sources. There may be cases where oral narratives cast suspicion on written sources, rather than the other way around. The controversy surrounding the escape route used by the Cheyenne during the outbreak of 1879 was partly resolved in favour of the Cheyenne; it was shown that independent archaeological evidence was more consistent with Cheyenne oral traditions than with the non-Aboriginal documentary histories. Alternatively, the oral narratives may fill in gaps in the written record. For example, Abenaki oral accounts resolve contradictory written accounts of the 1759 Franco-British rivalry in Maine. This also illustrates the importance of using sources in methodological conjunction.

Rigorous testing must be performed on *all* sources, irrespective of their status as oral or written narrative. Ironically, anthropologists such as Toby Morantz have complained that, while some oral narratives (e.g., among the Dogribs) have been subjected to extraordinarily rigorous testing, the written materials have been used uncritically.

5.3.4 Long-term Traditions (opinions in Section 6.18)

How long can historically "accurate" oral traditions be maintained? Long-

term traditions, which I define as traditions allegedly describing events millennia ago are said to include references to giant beavers, mammoths, mastodons, and other mega-fauna known to be extinct for thousands of years. I have examined all reported cases and have concluded that, while intriguing, these traditions cannot be used as evidence for the existence and persistence of a long-term cultural memory of Pleistocene North America or of the Paleo-Indian period. Aboriginal and non-Aboriginal proponents of such "fossil memories" stretch credulity to unreasonable limits and offer arguments fraught with *non sequitur*.

5.3.5 Short-term Traditions (see opinions in Section 6.19)

Evidence has been mounting that many Aboriginal oral traditions contain information on historical realities that are centuries old. These traditions have usually been validated by using the type of external tests described in Section 5.3.3 (*supra*).

Some traditions in Alaska can be correlated with geological events in A.D. 1400 and even A.D. 720. The Paiute have traditions about the Pueblo peoples of 800 years ago. Modern Abenaki and Cree traditions give details of events which took place in the seventeenth and eighteenth centuries. The Hopi have traditions of the coming of the Spanish and the Pueblo Revolt of 1680. The Inuit of the 1860s had oral traditions of Frobisher's voyages of the 1570s. The Tlingit of the 1880s had similar traditions about the European exploration of the Northwest Coast in 1786. The Passamaquoddy have oral accounts of events which took place during the American Revolution. Twentieth-century Netsilik recalled nineteenth-century European expeditions into the arctic. Dogrib traditions recount events in the 1820s. While details are often exceedingly sketchy and not all cases are incontrovertible, these studies cannot be entirely discounted. Having examined these cases in some detail, I can only conclude that there is sufficient evidence to warrant an *a priori* assumption that Aboriginal oral traditions *may* contain evidence of "actual" past events (in a western sense) which occurred centuries ago.

5.3.6 Consistency

Returning to Question 3: how consistent are oral traditions over time? The answer depends on the case, as well as on definitions of "consistency." Athabaskan and Tlingit elders told the same stories in the 1980s that were recorded in the 1880s. Algonquian oral traditions have survived more than 300 years in recognizable form. An account of an Indian invasion of the Southwest from the Plains was given independently in 1525, 1880, and 1935. On the other hand, Hopi eyewitness accounts

(i.e., oral histories recorded in the 1890s) about a Navaho attack in the 1850s were significantly altered by the time they became oral traditions in the 1930s. A Crow narrative recorded in 1931 had notable discrepancies when compared with an account of the same events obtained *from the same informant* in 1912.

When independent evidence is available to permit validation, some oral traditions about events centuries old turn out to be surprisingly accurate. Moreover, when multiple tellings have been recorded over the years and can be compared, some traditions appear to be consistent in many respects. While this may generate spirited optimism among those seeking to maximize the potential historicity of oral traditions, the news is not all good. There is, in fact, overwhelming evidence that many oral traditions do not remain consistent over time and are either inadvertently or deliberately changed to meet new needs. Aside from the fallibility of human memory and inter-individual transmission, the factor that most contributes to the changing expression of any given oral tradition is the social and political context of the "present" in which it is narrated (see Section 5.2.4 *supra*).

The fact that examples can be found to defend the positions of both advocates and sceptics is a good argument for abandoning any *a priori* conviction about the reliability or validity of oral traditions. The most prudent strategy is to carefully scrutinize oral narratives on a case-by-case basis.

5.4 QUESTION 4

What research (or secondary source material) has dealt with oral tradition in a legal perspective?

Surprisingly little research has dealt specifically with oral tradition in a legal perspective, partly because oral communications fall under the law of evidence which is an established field of law with a set of existing rules.

The secondary materials I was able to locate (see Section 6.20) were generated primarily in reaction to the manner in which the courts have admitted, weighed and rejected oral narratives from Aboriginal witnesses. Much of the most recent literature on the subject concerns Chief Justice McEachern's landmark decision in *Delgamuukw v. B.C.* The academic reaction to his reasons for judgement is nothing short of astounding and ranks among the most vehement in recent memory. It dispels any notions people might have that scholars are dispassionate and disinterested parties.

Briefly, the complaints are that the court accepted written evidence uncritically as "factually accurate" information and dismissed oral traditions as being unable to meet standards prescribed by law. In other words, documents, which according to the court "speak for themselves," carry more weight. The court was also chastised for apparently setting written documents as the *standard* to which oral sources must conform. The presiding judge was accused of positivism, ethnocentrism and various other isms. It was lamented that he failed to account for the problematic nature of history and merely entrenched his own western historicity.

In my view, McEachern C.J. did volunteer some rather unfortunate commentary; while many of the criticisms are justified, some are unfair, and several assertions about the judge's position are demonstrably false. More importantly, the critique consists of a resolute defence of the postmodernist, antipositivist agenda. The critics seem not to be bothered by the fact that theirs is not an Aboriginal perspective competing for equal time in the courtroom, but an ideology emerging from the same western, intellectual tradition and discourse they so ardently oppose. Contrary to the impression left by them, this ideology has not completely replaced older ideologies or achieved hegemony in contemporary academic discourse, but competes with other approaches, including various incarnations of materialism, positivism and historical objectivism. To suggest, then, that our legal system is anachronistic and somehow out of touch with the academic world is disingenuous. For practical and legal purposes, the court simply adopted a framework that, while problematic, is not at all uncommon in the academic world and is reflected in much of the literature examined in this study.

Rather than depending on the secondary reactions to the way in which oral traditions are seen by our legal system, it is best to examine original court judgements. I now turn to the latter.

5.5 QUESTION 5

Based on a list of summarized court cases which deal with the issue of oral tradition and on a secondary source review, what are the factors that limit, and/or enhance, the utility of oral tradition in the Canadian legal system?

I have transcribed numerous excerpts from court cases in which oral traditions were at issue (Section 6.21 *infra*). These cases do not, by any means, exhaust the case law. Nevertheless, I believe they are representative of the most recent legal thinking on the matter. Parenthetically, it should be noted that in Indian cases rulings made (and precedents set) in other national jurisdictions have transfer value in the Canadian context and are often cited by lawyers and judges.

Hence, I have included important cases from the United States and Australia.

There is a recognition in the courts that history has a determinative effect upon issues involving Aboriginal rights. There is no question that legal outcomes often rest on historical interpretations. The courts acknowledge the importance of considering both written and oral narratives in contemplating historical issues relating to Aboriginal peoples.

The testimony of anthropologists who formulate opinions based on information received from Indians as to their oral traditions is generally admissible, although judges are just as liable to disregard any such "expert" evidence as biased. It seems they have also struggled with the problems inherent in the strict orality/literacy dichotomy discussed earlier (Sections 5.2.1 - 5.2.4 *supra*). For example, McEachern C.J. complained that he had "heard the evidence of numerous scientists who, for the purpose of their disciplines, have relied to some extent upon oral 'material' (a neutral word) even though some of it has now been reduced to writing by anthropologists and others, which adds still another dimension of difficulty to the weighing process."

Oral traditions are, by definition, hearsay evidence. In *Uukw (Tait) et al. v. R. in Right of British Columbia and Attorney General of Canada* the definition of hearsay included "collections of information or belief, passed on orally from generation to generation, which were also tendered as proof of the truth of the facts stated." Nevertheless, as evidence, oral traditions often fall under an exception to the hearsay rule known as reputation evidence, relating to declarations of deceased persons as to matters of public and general rights. For this reason, (and no doubt the contemporary political climate) there is a tendency to lean towards admissibility.

Although oral traditions may be given in evidence, as a matter of admissibility, they are still subject to considerations of weight. The courts feel obligated to consider what evidence is the best evidence in accordance with "the best evidence rule." Oral evidence must be weighed like any other evidence. Since statements made subsequent to the commencement of litigation are considered in that light, it is not surprising that oral traditions related during trial are often given less weight than information recorded prior to litigation.

In testing the trustworthiness of oral narratives, there is a general tendency to think that "the concurrence of many voices" raises a reasonable presumption that the facts are true. In light of our discussion in Section 5.3.3 (*supra*), this can only be considered naive. Fortunately, judges do not depend exclusively on this weak test.

In the *Delgamuukw* case, McEachern C.J. ruled that, while admissible out of

necessity as exceptions to the hearsay rule, the oral traditions could not be treated as direct evidence of facts in issue except in a few cases. The presiding judge, himself, subjected the traditions to a number of tests and ultimately decided that the traditions were not "literally true:"

I am satisfied that the lay witnesses honestly believed everything they said was true and accurate. It was obvious to me, however, that very often they were recounting matters of faith which have become fact to them. If I do not accept their evidence, it will seldom be because I think they are untruthful, but rather because I have a different view of what is fact and what is belief. As with so many other cases, this one sorts itself out in such a way that the legal issues fall to be decided not on the validity of the plaintiffs' beliefs but rather by the application of legal principles to what they actually say within the totality of all the evidence.

The bottom line, here, is that "admissibility and weight of evidence are two completely different concepts." Similarly, Justice Muldoon, in *Twinn et al vs. the Queen*, permitted oral traditional testimony, but then subjected it to considerations of weight. He concluded with his own opinions on "the trouble with oral history," by alluding to the sticky problem (see Section 5.2.4 *supra*) of a present past:

It just does not lie easily in the mouth of the folk who transmit oral history to relate that *their* ancestors were ever venal, criminal, cruel, mean-spirited, unjust, cowardly, perfidious, bigoted or indeed, aught but noble, brave, fair and generous, etc. etc. In no time at all historical stories, if ever accurate, soon become mortally skewed propaganda, without objective verity...So saying, the Court is most emphatically not mocking or belittling those who assert that, because their ancestors never developed writing, oral history is their only means of keeping their history alive. It would always be best to put the stories into writing at the earliest possible time in order to avoid some of the embellishments which render oral history so unreliable.

Judges rely not only on previous case law, but also on standard sources (such as Phipson and Wigmore) for guides on evidentiary issues and tests of trustworthiness. The court is also entitled to rely on its own historical knowledge and research and may take judicial notice of opinions made in non-legal contexts. Hence, McEachern C.J. cites a work by anthropologist Bruce Trigger in support of an opinion that oral traditions not subjected to independent

verification or critical scrutiny cannot be regarded as accurate historical accounts. He is reminded by "many learned authors" to be cautious. It is clear that our legal system does not operate in a vacuum, but depends in part on the academic research and opinions of the type reviewed in this study.

My review of the legal literature suggests that the main factors which limit, and/or enhance, the utility of oral tradition in the Canadian legal system are similar to those I have already identified in the academic literature. Nevertheless, there are differences. While in the academic literature oral traditions are seriously considered because they are recognized as being similar to documentary sources, the legal system tends to admit them out of necessity. The legal system then operates from within a resolute positivism and a nineteenth-century form of historical objectivism. This is necessitated by the practical exigencies of dispute resolution and has no easy remedy.

The judiciary must be educated on the problematic nature of history and be encouraged to recognize that the pasts told by Aboriginal peoples cannot be accorded respect by slavishly maintaining fidelity to western rules of evidence. At the same time, parties in a dispute must recognize that the context of dispute resolution requires certain ground rules. In my view, these rules should include a requirement to reduce oral traditions (and any relevant contexts) to an accessible record for purposes of comparison and independent testing. Since our legal system entitles parties to a pre-trial examination of the evidence each party hopes to introduce, it is curious that oral traditions often surface only at trial. As is the case with "ancient" documents, it is preferable that analysis be done by qualified scholars prior to trial, so that judges who are compelled to decide on issues of weight can draw on the expert opinion reports prepared by *all* parties in a dispute, rather than depend solely on the speech-counterspeech discourse of a cross-examination. This does not place a greater burden on those who rely primarily on oral traditions since, as I indicated earlier (Sections 5.2.1 - 5.2.4 *supra*) the orality/literacy dichotomy is spurious, and, in any event, Aboriginal peoples routinely mobilise western academic "experts" to translate oral as well as written narratives into supporting evidence. It is clear that we have come to the point where some form of manual or other guide should be published to assist those struggling with issues surrounding the use of oral narratives in contested pasts. In the meantime, it is hoped that this preliminary literature review will serve to stimulate further research.

For the most part, I sympathize with the position of those anthropologists who believe it is inappropriate to use oral traditions from Aboriginal cultures as if they were equivalent to historical evidence as defined by western scholarship. Nevertheless, it must be kept in mind that this holds only when such traditions are restricted to the internal discourse of the narrator's own group. Once the tradition is offered as a challenge to another history, is purported to conform to

an empirical reality or an "actual" past, or is admitted as "evidence" in dispute resolution, it can no longer be contextualized solely on its own terms. Now an unyielding relativism must give way to an acceptance of at least some positivistic criteria for assessing "truth value." The alternative is no resolution at all.

I leave the final word to Dora Wilson-Kenni, a Gitksan monitor and advisor in the *Delgamuukw* case:

None of our languages are written; it's an oral history. And I guess this is one of the arguments that was used against us; that there's oral history and nothing is written. I guess it's fine if anthropologists get this history and write it down and then it can be recognized... To me it was a sad day when I heard that decision [by Judge McEachern]. And yet in a way I was happy because in a way it was a victory. A victory in a way that yes, our oral history was slammed around as we were witnesses on the witness stand, but we have it written in black and white now for anyone to see in those transcripts, in those 374 volumes of transcripts. In all of the commissioned evidence, all of those affidavits--it's there written, and that is something that the Gitksan and Wet'suwet'en people have done to further this fight for recognition. [Wilson-Kenni 1992:9-11]

6. OPINIONS GLEANED FROM THE LITERATURE

6.1 ORAL TRADITION

"Strictly speaking, oral traditions are those recollections of the past that are commonly or universally known in a given culture. Versions that are not widely known should rightfully be considered as 'testimony' and if they relate to recent events they belong to the realm of oral history" (Henige 1982:2 quoted in Cohen 1989:9-10).

[Cohen (1989) rejects fixed and formal definitions of oral tradition.]

"The term *oral tradition*, then, is often used to refer to two different things. Sometimes we use it to point to a body of *material* retained from the past and known to elders. Other times, we use the term to talk about a *process* by which that material has been handed down to the present" (Cruikshank 1991:141).

"[Richard Dorson] distinguishes the recollections of first-hand experience as oral personal history in contrast to oral traditional history...and calls both types of accounts species of oral folk history" (Danielson 1984:179).

[Debate on the definition of oral history and its relationship to oral tradition (Dixon 1967)]

"In practice a number of very disparate sources have often been lumped together under the name 'oral tradition.' Broadly one can list three main classes of oral tradition: recognized literary forms, generalized historical knowledge, and personal recollections" (Finnegan 1970:195). The author goes on to describe each.

"The term 'oral tradition' is a peculiarly vague one and susceptible to a host of ambiguous interpretations. The most thorough taxonomy constructed to date lists six broad categories, with several sub-divisions in each. Additionally, there are distinctions to be made between traditions and testimonies, between official and unofficial traditions, and between individual and consensual accounts. For the purposes of this study the term 'oral tradition', unless specifically qualified, refers to that corpus of orally transmitted material which addresses itself specifically to recounting the past. This implies in most instances some attempt at assigning some form of duration and sequence to events over a period of time exceeding three generations, that is, a length of time beyond the maximum limits of personal testimony and experience. In this sense, poetry, heroic recitations, folk-tales, and like forms of oral art are excluded since they are essentially unconcerned with duration and sequence" (Henige 1974:2).

"We are left with defining the two styles of oral historiography: 'oral history' and 'oral tradition'. Though quite different--one an activity, the other a genre of source--these terms have frequently been used interchangeably. As normally used nowadays, 'oral history' refers to the study of the recent past by means of life histories or personal recollections, where informants speak about their own experiences... 'Tradition'--as in 'oral tradition'--also has, or should have, a connotation of its own. In order for anything to be regarded as a tradition, it should be widely practised or understood in a society and it must have been handed down for at least a few generations. The term, however, is all too often misapplied to represent just about anything to which anyone wishes to give legitimacy or added lustre. Strictly speaking, oral traditions are those recollections of the past that are commonly or universally known in a given culture. Versions that are not widely known should rightfully be considered as 'testimony' and if they relate to recent events they belong to the realm of oral history" (Henige 1982:2).

"...the study of oral tradition, which we have defined as the recollection of the more distant past that has been transmitted for several generations and has become more or less the common property of a society. Since no living members experienced these events or saw the people whose names and deeds they remember, informants in these circumstances can be considered as primary sources only in the sense that the historian cannot go beyond them in his quest for information" (Henige 1982:106).

"'Oral tradition' is the usual name for these verbal stories passed on from one generation to the next... Rather than the collecting of stories handed down from generation to generation, 'oral history' will here refer to the collecting of any individual's spoken memories of his life, of people he has known, and events he has witnessed or participated in" (Hoopes 1979:6-7).

"Oral traditions are not normally the direct, immediate, personal experiences of those who hold them in memory but rather the experiences of a whole ethos of previous generations, acquired from the last immediate one, and retold in the present as they are understood by the present generation" (Moss 1988a:9).

"As distinct from oral traditions--stories that societies have passed along in spoken form from generation to generation--oral history *interviewing* has been occurring since history was first recorded" (Ritchie 1995:1).

"One has to draw a clear line between oral tradition and oral history. The former includes traditions of a people or a tribe that is transmitted to future generations via various means... Oral history, on the other hand, deals mainly with the present and the recent past, encompassing a relatively short span of time" (Seligman 1989:176).

"...the very expression 'oral history' ...is actually a misnomer. I believe that things

would have been much clearer in both the popular and academic mind if we had ignored this catchy American phrase and stuck with the older British practice of speaking of oral evidence or the oral tradition as the case might be. But since the term has been adopted both in Canada and in Britain itself it seems we can do little but make the best of it... oral history is really a type of umbrella heading referring to three separate identities. It can refer to a technique of history, which as such, can be used in any historical field though it is most frequently used in, and most appropriate to, social history. Secondly, oral history can refer to a type of historical source which like any historical evidence must be subjected to the normal rules governing historical data: to be aware of bias, to look for internal consistency, and most important to seek confirmation in other sources. Thirdly, the term oral history is used to denote oral tradition as opposed to eyewitness reports or oral testimony. As Vansina points out oral tradition is 'oral testimony transmitted verbally, from one generation to the next or more.'" (Sturino 1979:15-16).

"A clear distinction must be made between personal oral histories--eyewitness accounts--which are relatively easy to evaluate, and oral traditions--which are handed down by word of mouth to later generations" (Thompson 1988:143).

[Oral traditions are] "verbal messages which reported statements from the past beyond the present generation" (Vansina quoted in Tonkin 1986:206).

"There are, however, other social models which are 'user friendly' to historians who wish to trace, record and evaluate oral claims about past conditions and events. If we change the word 'tradition' to 'knowledge' it is more visibly a *resource*. The questions that can be asked include: what sorts of knowledge are valued for what purposes? What are the constraints on the publicizing of different kinds of knowledge? What are the learning opportunities? ... The 'knowledge-as-resource' perspective requires attention to social interaction, in which, for instance, ambitious and senior men become versed in the past either as a current political resource or as a guarantee of their claims to wisdom or to influence" (Tonkin 1986:206).

"I make no distinction here between 'traditionists' and eye-witnesses... A single oral historian's narrative may bring together 'tradition', 'eye-witness account' and other types of testimony" (Tonkin 1986:208-209).

"The main exponent of methods by which oral historical accounts can be evaluated has been Jan Vansina. He makes a sharp distinction between oral reminiscence and oral tradition, which he has defined ...as the transmission of oral messages, at least a generation old. Although this distinction looks commonsensical, there are theoretical and empirical objections to it, and in trying, myself, to understand oral representations of pastness, my perspective has come to be very different from that of the seekers after 'oral tradition' ...I argue that the conditions of transmitting memory and the nature of past-oriented discourses are different from those posited

by Vansina. Recapitulating his arguments, let me take first his distinction between reminiscence and oral tradition, since he says his methodology applies only to the latter. Yet it does not seem empirically tenable if one goes by the form of the discourse... Tellers...might not distinguish, generically, eyewitness from hearsay or olden times from the present" (Tonkin 1992:85-86).

"The expression 'oral tradition' applies both to a process and to its products. The products are oral messages based on previous oral messages, at least a generation old. The process is the transmission of such messages by word of mouth over time until the disappearance of the message. Hence any given oral tradition is but a rendering at one moment, an element in a process of oral development that began with the original communication" (Vansina 1985:3).

"Heresay or rumor is transmitted from ear to mouth... Rumors that are not contradicted survive and become part first of the store of oral history, later also of oral tradition... Hearsay is the fountainhead of most tradition or most written documents. Eyewitness accounts in both categories of sources are in fact rare. Very often, one can no longer ascertain whether the rumor derives from an eyewitness account or not" (Vansina 1985:6).

"The sources of oral historians are reminiscences, hearsay, or eyewitness accounts about events and situations which are contemporary, that is, which occurred during the lifetime of the informants. This differs from oral traditions in that oral traditions are no longer contemporary. They have passed from mouth to mouth, for a period beyond the lifetime of the informants. The two situations typically are very different with regard to the collection of sources as well as with regard to their analysis; oral historians typically interview participants in recent or very recent events, often of a dramatic nature, when historical consciousness in the communities involved is still in flux" (Vansina 1985:12-13).

"As messages are transmitted beyond the generation that gave rise to them they become oral traditions. Among traditions exist different classes according to the further evolution of the message. A first class consists of memorized messages and within it one distinguishes messages in everyday language (formula, prayer) from messages subject to special language rules (poetry). Memorized traditions behave very differently over time from others. Among the latter, one distinguishes again between formal speech (epic) and everyday language (narrative). Narratives themselves belong to two different classes according to the criterion of factuality. Some are believed to be true or false, others are fiction" (Vansina 1985:13). [Vansina goes on to describe each class in detail]

"Group accounts are the typical 'oral traditions' of many authors. They are the oral memories of groups such as villages, chiefdoms, kingdoms, associations, and various kinship groups. I have called them 'groups' because they embody

something which expresses the identity of the group in which they are told or substantiates rights over land, resources, women, office, and herds. They are all institutionalized to some extent. They are told officially on formal occasions. They are often the property of a group" (Vansina 1985:19).

"We are now ready to define oral traditions as verbal messages which are reported statements from the past beyond the present generation. The definition specifies that the message must be oral statements spoken, sung, or called out on musical instruments only. This distinguishes such sources not only from written messages, but also from all other sources except oral history. The definition also makes clear that all oral sources are not oral traditions. There must be transmission by word of mouth over at least a generation. Sources for oral history are therefore not included. On the other hand, the definition does not claim that oral tradition must be 'about the past' nor that they are just narratives... Such a definition does not rally all suffrages. Henige would add a further restriction, namely that they should be commonly or universally known in a given culture. Versions that are not widely known should rightfully be considered as 'testimony.' To us this distinction is unnecessary here, and we prefer rather to use 'testimony' in its widest sense as 'evidence about something.'" (Vansina 1985:27-28).

"...it is evident that to a historian the truly distinctive characteristic of oral tradition is its transmission by word of mouth over a period longer than the contemporary generation. This means that a tradition should be seen as a series of successive historical documents all lost except for the last one and usually interpreted by every link in the chain of transmission. It is therefore evidence at second, third, or nth remove, but it is still evidence unless it can be shown that a message does not finally rest on a first statement made by an observer" (Vansina 1985:29).

6.2 ORAL HISTORY

"The term *oral history* is used in two ways. It can refer to the method by which oral information about the past is collected and recorded, and it can also mean a body of knowledge that exists only in people's memories and will be lost at their deaths" (Allen and Montell 1981:23).

"An expanded definition of oral history includes not only tape-recorded reminiscences of living informants or witnesses, but also 'other sources of first-hand, off-the-cuff, unrehearsed information' such as 'letters, diaries, and testimony at trials, royal commissions, and inquests' (Bowen 1989:21).

"In the broadest sense, oral history is another term for conversation, the generic function of which is to communicate by word of mouth. It can include everything from folklore to the psychoanalytic interview, and is broad enough to encompass a

grandparent reminiscing about the Depression. Oral history is a conversation which is best defined by its purpose or function, its primary objective the recording of oral data to supplement the historian's more conventional work with written sources. The purpose of these interview/conversations is to corroborate, to correct, and to extend the lines of traditional historical inquiry" (Clark et al. 1980:29).

"Oral history may thus be defined as *the process whereby an historian seeks to create historical evidence through conversation with a person whose life experience is deemed memorable*" (Clark et al. 1980:30).

"Strictly speaking, oral traditions are those recollections of the past that are commonly or universally known in a given culture. Versions that are not widely known should rightfully be considered as 'testimony' and if they relate to recent events they belong to the realm of oral history" (Henige 1982:2 quoted in Cohen 1989:9-10).

"The taped record of the interview is considered an intermediate step toward a typewritten manuscript, and the transcript quite obviously is not history but rather raw material with which historians can work... Since oral history is now part of our language it seems advisable to make its meaning clear by limiting its application to cases in which the taped record is transcribed and made available to other researchers" (Colman 1965:80).

"A common definition of oral history among oral historians focuses on the reminiscence about direct personal experience..." (Danielson 1984:178).

"[Richard Dorson] distinguishes the recollections of first-hand experience as oral personal history in contrast to oral traditional history...and calls both types of accounts species of oral folk history" (Danielson 1984:179).

"Edward D. Ives...suggests that oral history is a technique that may be used for a variety of purposes. It involves collecting different types of oral material about the past. The data can be used in the reconstruction of historic occurrences, or it can be used in the analysis of popular conceptions of past events and behavior" (Danielson 1984:179).

[Debate on the definition of oral history and its relationship to oral tradition (Dixon 1967)]

"Oral literature and Oral History are separate and unrelated growth industries in the universities... Yet the supporters of the movements seem largely unaware that folklorists have engaged in Oral Literature and Oral History for nearly two centuries" (Dorson 1976:127).

"Both Oral Literature and Oral History involve orally transmitted expressive forms, in the one case Märchen, epics, ballads, proverbs, romances, riddles, topical poems, praise songs, lyrics, and the like, and in the other case reminiscences, recollections, anecdotes, reconstructions, testimonies, sagas, genealogies, myths, memorates, and so on" (Dorson 1976:130).

"Oral History, like Oral Literature, is confined to one individual. Oral Traditional History, like Oral Traditional Literature, is shared by a number of tellers and flows from the dead to the living" (Dorson 1976:138).

"Throughout my remarks, I will be using the commonly accepted definition of oral history to mean the collection of information by means of tape-recorded interviews with individuals" (Dryden 1981:34).

"Many of the texts presented as 'local historical accounts' are in fact elicited rather than spontaneous narratives. In other words, an answer is being given to a particular researcher which would not be naturally given in other circumstances and therefore does not form part of the formal transmission of traditions in that society. An elicited narrative of this kind is of course particularly subject to current preoccupations and conflicts, the status of and attitude to the inquirer, the present political situation and so on. This is not to say that such narrations are useless. But they are clearly of a different kind of account from one formally handed down and authorized by the society or a dominant group in it. Too often we are not told by the researcher which type of 'historical narrative' he is relying on; we may thus be given the impression that what was in fact an elicited version is really an authoritative and formalized account" (Finnegan 1970:198).

"Oral history, then, consists of the eye-witness account and of oral tradition" (Fontana 1969:366).

"Oral history is based on the recollections of the elderly who have personal experience of the past events or situations being studied" (Gant 1987:27).

"First let us consider just what is meant by oral history. On the one hand, it refers to the use of in-depth interviewing; on the other, its main purpose is to elicit data from the past... The novelty of oral history is that it uses interviewing as a means of gaining information about the more distant past, i.e., from fifty or sixty years ago instead of from one year -- or one week -- ago (Gittins 1979:82).

[Grele 1981:27 points to the tremendous diversity of approaches called "oral history"]

"Most definitions of oral history are a variant of the definition given by Louis Starr in his 1977 article for the *Encyclopedia of Library and Information Sciences*. 'Oral

History,' he wrote, 'is primary source material obtained by recording the spoken words--generally by means of planned tape recorded interviews--of persons deemed to harbor hitherto unavailable information worth preserving.' As is obvious, this definition is very broad and was meant to encompass almost any formally organized recording of any conversation about what happened in the past. It allowed anyone to claim as oral history any conversation about the past in which they were involved and for which any record of any kind was kept" (Grele 1993:506).

"When interviewing is done for one's own purposes with no intent to make the interviews public, to share them, and when they are kept from public scrutiny, it is not oral history. Only when the interviews are conducted with the understanding that they will be placed in a proper repository, and that they will be read or listened to by others or otherwise made available to the community at large, is it oral history. Making the interview available for review and revision, comment and criticism, judgement and reinterpretation, is what makes it oral history" (Grele 1993:508-509).

"We are left with defining the two styles of oral historiography: 'oral history' and 'oral tradition'. Though quite different--one an activity, the other a genre of source--these terms have frequently been used interchangeably. As normally used nowadays, 'oral history' refers to the study of the recent past by means of life histories or personal recollections, where informants speak about their own experiences... 'Tradition'--as in 'oral tradition'--also has, or should have, a connotation of its own. In order for anything to be regarded as a tradition, it should be widely practised or understood in a society and it must have been handed down for at least a few generations. The term, however, is all too often misapplied to represent just about anything to which anyone wishes to give legitimacy or added lustre. Strictly speaking, oral traditions are those recollections of the past that are commonly or universally known in a given culture. Versions that are not widely known should rightfully be considered as 'testimony' and if they relate to recent events they belong to the realm of oral history" (Henige 1982:2).

"This practice of interviewing people about their own experiences is generally called oral history, or sometimes life history... Although the terms 'oral history' and 'life history' are often used interchangeably, it is best to make a distinction between them. 'Life history' is a concept that is used in anthropology and psychiatry as well as in history... As its name suggests, life history is essentially a spoken autobiography in which the informant is asked to relate at some length those parts of his life that seem *to him* most interesting and important. In these circumstances the interviewer tends to learn more about the informant than about the larger world he lived in. In some cases this may be just what the historian is after but more often it is likely to be an inefficient way to learn about the recent past. This knowledge may be more successfully gained by means of oral history. Here the historian guides the informant in the same way as he does with regard to collecting oral

tradition" (Henige 1982:106).

"Oral history may be defined as a process of collecting, usually by means of a tape-recorded interview, reminiscences, accounts, and interpretations of events from the recent past which are of historical significance" (Hoffman 1984:68).

"'Oral tradition' is the usual name for these verbal stories passed on from one generation to the next... Rather than the collecting of stories handed down from generation to generation, 'oral history' will here refer to the collecting of any individual's spoken memories of his life, of people he has known, and events he has witnessed or participated in" (Hoopes 1979:6-7).

"For reasons of clarity, oral history will be defined here in accordance with its most modern and popular meaning, that is, 'as a method for the gathering and preserving of historical information in oral form by means of a tape recorded interview'" (Lothead 1976:5).

"As opposed to the journalistic approach, the academic approach to oral history is characterized by its emphasis on preliminary research in some library or archive and on planned interviews which seek answers to questions developed from a preconceived analytical base. The information gleaned from the interviews serves as supportive evidence for the theses that the academic has chosen to advance" (Lothead 1976:7).

"'Oral history' is the name applied to the end products of interviews into a wide variety of research topics. The end products are usually tape-recorded anecdotal information, and such tapes may include life histories, perceptions of historical events, narration of folklore, and memories of personal experiences. Most often oral history is the result of a cooperative effort between an interviewer and an informant" (MacDonald 1985:15).

"By oral history, I mean interviews/conversations designed to record the memorable experiences of people" (McMahan 1989:xiv).

"An oral history, unlike an autobiography, and unlike oral traditions, would not exist without the active intervention of the historian. It is a document created as a result of the interests, questions, values, ambitions, ideas and drive of the historian" (Grele quoted in McMahan 1989:5).

"'Oral history' as defined by Vansina...is simply unwritten historical sources which enable a non-literate people to preserve and transmit a reconstruction of the past" (Morantz 1984:173).

"Oral history is difficult to define exclusively. It is far easier to talk about it than to

pin down the boundaries between what is and what is not oral history" (Moss 1974:6).

"At least with programs that concentrate on major historical events and personalities, oral history interviewing is a systematic collection, arrangement, preservation and publication (in the sense of making generally available) of recorded verbatim accounts and opinions of people who were witnesses to or participants in events likely to interest future scholars" (Moss 1974:7).

"Oral history is a peculiar beast. It defies easy definition. A technique in the service of many disciplines, it fits neatly into no particular discipline..." (Moss 1988a:5).

"To understand what oral history offers as a discrete and useful way of looking at the past and mastering it, we have to examine its nature and character. To do this, it is necessary first to describe and define two other things that overlap and relate to oral history but are not oral history. One is documentary history; the other is oral tradition" (Moss 1988a:8).

"Oral history focuses on the direct life experiences of individuals, and the collector of oral history participates directly in a joint and cooperative effort with the narrator to examine and record the life experiences. If documentary history is based on discrete transactions or, more precisely, on their records; and if oral traditions are based on cultural dynamics, oral history may be seen as based on immediate life experiences of discrete individuals" (Moss 1988a:11).

"Simply put, oral history collects spoken memories and personal commentaries of historical significance through recorded interviews. An oral history interview generally consists of a well-prepared interviewer questioning an interviewee and recording their exchange on audio or videotape" (Ritchie 1995:1).

"As distinct from oral traditions--stories that societies have passed along in spoken form from generation to generation--oral history *interviewing* has been occurring since history was first recorded" (Ritchie 1995:1).

"Oral historians and folklorists both use interviews to collect information, but not necessarily the same type of information. The two practices have been described as opposite ends of a continuum: oral historians concentrate on recording the personal experiences of the interviewee, and folklorists collect the traditional stories, songs, and other expressions of the community, fact or fiction" (Ritchie 1995:16).

"Oral history has been variously defined, and the name has been used to describe a number of different activities. For the purposes of this book it will be defined loosely: information transmitted orally, in a personal exchange, of a kind likely to be of historical or long-term value. The information can then be committed to memory,

written down, or put on tape or video. Oral history is thus not a new *kind* of history...but rather a type of *source* or *evidence*" (Seldon and Pappworth 1983:4).

"One has to draw a clear line between oral tradition and oral history. The former includes traditions of a people or a tribe that is transmitted to future generations via various means... Oral history, on the other hand, deals mainly with the present and the recent past, encompassing a relatively short span of time" (Seligman 1989:176).

"Oral history is the tape-recording of reminiscences about which the narrator can speak from first-hand knowledge. Through pre-planned interviews, the information is captured in question and answer form by oral history interviews" (Willa Baum quoted in Shopes 1993:430).

"Oral history...may be defined as a process of collecting, usually by means of a tape-recorded interview, reminiscences, accounts, and interpretations of events from the recent past which are of historical significance" (Alice Hoffman quoted in Shopes 1993:430).

"Oral history is primary source material obtained by recording the spoken words--generally by means of planned, tape-recorded interviews--of persons deemed to harbor hitherto unavailable information worth preserving" (Louis Starr quoted in Shopes 1993:430).

"The term *oral history*...can refer to the method by which oral information about the past is collected and recorded, and it can also mean a body of knowledge that exists only in people's memories and will be lost at their deaths" (Barbara Allen and Lynwood Montell quoted in Shopes 1993:430).

"Indeed, oral history is not one thing. It is both process and product, a recovery of information--'accounts'--as well as interpretations of the past, and it necessarily involves subjective issues of meaning--what's significant and to whom--and of memory--who remembers what... I understand oral history to be a social exchange in which one person requests another to articulate his/her memories of an aspect of the past" (Shopes 1993:431).

"Oral history is defined as primary source material in the form of tape or transcript (an many cases both), resulting from recorded interviews with persons deemed likely to harbor recollection of interest to scholars" (Starr 1971:3).

"Oral history is primary source material obtained by recording the spoken words--generally by means of planned, tape-recorded interviews--of persons deemed to harbor hitherto unavailable information worth preserving" (Starr 1978:440).

"...the very expression 'oral history' ...is actually a misnomer. I believe that things

would have been much clearer in both the popular and academic mind if we had ignored this catchy American phrase and stuck with the older British practice of speaking of oral evidence or the oral tradition as the case might be. But since the term has been adopted both in Canada and in Britain itself it seems we can do little but make the best of it... oral history is really a type of umbrella heading referring to three separate identities. It can refer to a technique of history, which as such, can be used in any historical field though it is most frequently used in, and most appropriate to, social history. Secondly, oral history can refer to a type of historical source which like any historical evidence must be subjected to the normal rules governing historical data: to be aware of bias, to look for internal consistency, and most important to seek confirmation in other sources. Thirdly, the term oral history is used to denote oral tradition as opposed to eyewitness reports or oral testimony. As Vansina points out oral tradition is 'oral testimony transmitted verbally, from one generation to the next or more.'" (Sturino 1979:15-16).

"A clear distinction must be made between personal oral histories--eyewitness accounts--which are relatively easy to evaluate, and oral traditions--which are handed down by word of mouth to later generations" (Thompson 1988:143).

"I make no distinction here between 'traditionists' and eye-witnesses... A single oral historian's narrative may bring together 'tradition', 'eye-witness account' and other types of testimony" (Tonkin 1986:208-209).

"The main exponent of methods by which oral historical accounts can be evaluated has been Jan Vansina. He makes a sharp distinction between oral reminiscence and oral tradition, which he has defined ...as the transmission of oral messages, at least a generation old. Although this distinction looks commonsensical, there are theoretical and empirical objections to it, and in trying, myself, to understand oral representations of pastness, my perspective has come to be very different from that of the seekers after 'oral tradition' ...I argue that the conditions of transmitting memory and the nature of past-oriented discourses are different from those posited by Vansina. Recapitulating his arguments, let me take first his distinction between reminiscence and oral tradition, since he says his methodology applies only to the latter. Yet it does not seem empirically tenable if one goes by the form of the discourse... Tellers...might not distinguish, generically, eyewitness from hearsay or olden times from the present" (Tonkin 1992:85-86).

"Heresay or rumor is transmitted from ear to mouth... Rumors that are not contradicted survive and become part first of the store of oral history, later also of oral tradition... Hearsay is the fountainhead of most tradition or most written documents. Eyewitness accounts in both categories of sources are in fact rare. Very often, one can no longer ascertain whether the rumor derives from an eyewitness account or not" (Vansina 1985:6).

"The sources of oral historians are reminiscences, hearsay, or eyewitness accounts about events and situations which are contemporary, that is, which occurred during the lifetime of the informants. This differs from oral traditions in that oral traditions are no longer contemporary. They have passed from mouth to mouth, for a period beyond the lifetime of the informants. The two situations typically are very different with regard to the collection of sources as well as with regard to their analysis; oral historians typically interview participants in recent or very recent events, often of a dramatic nature, when historical consciousness in the communities involved is still in flux" (Vansina 1985:12-13).

"Oral history here is defined as the scholar's tape recording of his interviews with persons who can shed light on past events..." (Wilkie 1973:49).

6.3 LIFE HISTORY

"there is a great deal of information about the past which is communicated and perpetuated outside of standard folktale genres, in the form of personal and collective memories of and reminiscences about the past... Oral historians, for example, record personal observations of and reactions to historical events from people directly involved in them; anthropologists regard life histories of individuals as valuable ethnographic documents... In spite of this insistence on the worth of oral historical traditions and personal memories, little effort has been made to incorporate such materials, even when they are collected, into written history. This may be because within the framework of the historical perspective, it is methodologically unwarranted to make generalizations on the basis of one individual's experience" (Allen 1979:112-113).

"This practice of interviewing people about their own experiences is generally called oral history, or sometimes life history... Although the terms 'oral history' and 'life history' are often used interchangeably, it is best to make a distinction between them. 'Life history' is a concept that is used in anthropology and psychiatry as well as in history... As its name suggests, life history is essentially a spoken autobiography in which the informant is asked to relate at some length those parts of his life that seem to him most interesting and important. In these circumstances the interviewer tends to learn more about the informant than about the larger world he lived in. In some cases this may be just what the historian is after but more often it is likely to be an inefficient way to learn about the recent past. This knowledge may be more successfully gained by means of oral history. Here the historian guides the informant in the same way as he does with regard to collecting oral tradition" (Henige 1982:106).

"The closest approximation in anthropology to what folklorists and historians call oral history is what we call the life history. In this tradition, anthropologists, formerly

armed with pen and paper, more recently with tape recorders, have elicited autobiographies from informants who would otherwise not produce them on their own... Anthropologists' aims differ from those of folklorists and oral historians. Our goal is less to analyze or describe historical events than it is to obtain people's perceptions of their own cultures and their own lives" (Leyton 1978:43).

6.4 REMINISCENCES

"Reminiscences are perhaps the most typical product of human memory. Prodded by questions or not, they primarily are the recollections of past events or situations given by participants long after the events. Reminiscences are bits of life history. Everyone holds such reminiscences. They are essential to a notion of personality and identity. They are the image of oneself one cares to transmit to others" (Vansina 1985:8).

6.5 COMMENTARIES

[re: commentaries] "All sorts of existing situations prompt explanations as to why they exist. Such explanations arise *ex post facto* and are therefore newly created messages. One set of explanations is thus often given for remarkable features in a landscape or to explain monuments. People often explained small depressions in rock as imprints of hands or feet of founding heroes, kings, or prophets" (Vansina 1985:10).

6.6 TESTIMONY OR EVIDENCE

[re: Another class of oral testimony] "is that collected by legal investigations as oral depositions, or recordings of oral interrogations and cross-examinations of witnesses. The character of this product is almost invariably driven by the purpose of the investigation, making the testimony immediate, highly specific, and directed, and to the point of the investigation under way. It is reliable evidence of the topic at hand, but at the same time highly biased by the limited perspective of the purpose at hand" (Moss 1988b:135).

6.7 ORAL LITERATURE

"Oral literature and Oral History are separate and unrelated growth industries in the universities... Yet the supporters of the movements seem largely unaware that folklorists have engaged in Oral Literature and Oral History for nearly two centuries" (Dorson 1976:127).

"Both Oral Literature and Oral History involve orally transmitted expressive forms, in the one case Märchen, epics, ballads, proverbs, romances, riddles, topical poems, praise songs, lyrics, and the like, and in the other case reminiscences, recollections, anecdotes, reconstructions, testimonies, sagas, genealogies, myths, memorates, and so on" (Dorson 1976:130).

"Oral History, like Oral Literature, is confined to one individual. Oral Traditional History, like Oral Traditional Literature, is shared by a number of tellers and flows from the dead to the living" (Dorson 1976:138).

"The term 'item of oral literature' will be used to refer to the *text and its performance*. This includes interpreter and the audience, as well as the social context, of the performer" (Jason 1969:413-414).

"...folk literature is orally transmitted literature" (Utley 1965:13).

6.8 FOLK HISTORY

Folk history: uses orally communicated information to research ideas or concepts about the past held by the people; these often differ sharply from the pasts constructed by outsiders (Allen and Montell 1981:9).

"The aim of ethnohistory is to reconstruct, using all available materials, what 'really happened' in terms that agree with *our* sense of credibility and our sense of relevance. In a folk history we attempt to find what people in another society believe "really happened," as judged by *their* sense of credibility and relevance" (Hudson 1966:54 quoted in Allen and Montell 1981:10-11).

"Charles Hudson separates folk history from ethnohistory in order, it appears, to distinguish what is studied from how it is studied. Folk history, according to this ethnohistorian, 'denotes the historical beliefs of other societies and cultures,' but the aim of ethnohistory is 'to reconstruct, using all available materials, 'what really happened' in terms that agree with our sense of credibility and our sense of relevance... In a folk history we attempt to find what people in another society believe 'really happened,' as judged by their sense of credibility and relevance.' Finally he uses the magic words: 'Thus, the methodology of ethnohistory is essentially 'etic,' while the methodology of folk history is essentially 'emic.'" (Danielson 1984:179).

"[Richard Dorson] distinguishes the recollections of first-hand experience as oral personal history in contrast to oral traditional history...and calls both types of accounts species of oral folk history" (Danielson 1984:179).

[Following Sturtevant, we could] "define ethnohistory as the beliefs about the past shared by members of a society... Adopting a term coined by R.G. Collingwood, Evans-Pritchard distinguished between history, events in the past, and 'incapsulated' history, the beliefs which contemporary people have about these past events..." (Hudson 1966:52). [Hudson follows with objections to both usages] "As an alternative to Evans-Pritchard's and Sturtevant's terms, I propose that we use 'folk history' to denote the historical beliefs of other societies and cultures" (Hudson 1966:53).

"The aims of research on folk history and ethnohistory are fundamentally different... the aim of ethnohistory is to reconstruct, using all available materials, what 'really happened' in terms that agree with our sense of credibility and our sense of relevance. In contrast, in folk history we attempt to find what people in another society believe 'really happened,' as judged by their sense of credibility and relevance. Furthermore, recognizing the fact that few historians are satisfied with mere narrative, the aim of ethnohistory is to explain what happened in terms that make sense to us. Again, the contrast in folk history is that one attempts to find out how members of a society explain why things happened the way they did. Thus, the methodology of ethnohistory is essentially 'etic,' while the methodology of folk history is essentially 'emic'... (Hudson 1966:53-54).

"...folk literature is orally transmitted literature" (Utley 1965:13).

6.9 FOLKLORE, MYTH, AND LEGEND

"The most prevalent contemporary view of the relationship between folklore and history is that the former can serve as a supplementary source of information for the latter" (Allen 1979:111).

"... folklore is not thought of as existing without or apart from a structured group. It is not a phenomenon *sui generis*. No matter how defined, its existence depends on its social context, which may be either a geographic, linguistic, ethnic, or occupational grouping. In addition, it has required distillation through the mills of time. Folklore may be 'old wine in new bottles' and also 'new wine in old bottles' but rarely has it been conceived of as new wine in new bottles. Finally, it has to pass through time at least partially via the channels of oral transmission" (Ben-Amos 1972:5).

"...for a folklore communication to exist as such, the participants in the small group situation have to belong to the same reference group, one composed of people of the same age or of the same professional, local, religious, or ethnic affiliation. In theory and in practice tales can be narrated and music can be played to foreigners... But folklore is true to its own nature when it takes place within the group itself. In

sum, folklore is artistic communication in small groups" (Ben-Amos 1972:13).

"Anthropologists and classicists tend to divide traditional narratives into two genres, myth and legend. 'Myth' tells of a time different from historical time as we know it, and describes origins and transformations of the world as it now appears. 'Legend' may be highly embellished but it can usually be traced to an historical event" (Cruikshank 1981:68).

"Although little interested in folklore himself, Morgan did, in his significant volume *League of the Ho-de-no-sau-nee, or Iroquois* (1851), distinguish between 'legendary literature' and historical traditions. The former consisted of 'fables which have been handed down from generation to generation' and inclined the aborigines to 'superstitious beliefs,' thereby retarding their advance towards civilization. Historical traditions, on the other hand, were 'tenacious of the truth,' representing the seeds of ascension by which the Indian could elevate himself from his savage state" (McNeil 1982:31).

"Oral historians and folklorists both use interviews to collect information, but not necessarily the same type of information. The two practices have been described as opposite ends of a continuum: oral historians concentrate on recording the personal experiences of the interviewee, and folklorists collect the traditional stories, songs, and other expressions of the community, fact or fiction" (Ritchie 1995:16).

6.10 ETHNOHISTORY

Ethnohistory: begins with documentary evidence written by literate outsiders about nonliterate peoples, and adds archaeological evidence and orally communicated historical data (Allen and Montell 1981:8-9).

"The aim of ethnohistory is to reconstruct, using all available materials, what 'really happened' in terms that agree with *our* sense of credibility and our sense of relevance. In a folk history we attempt to find what people in another society believe "really happened," as judged by *their* sense of credibility and relevance" (Hudson 1966:54 quoted in Allen and Montell 1981:10-11).

"Charles Hudson separates folk history from ethnohistory in order, it appears, to distinguish what is studied from how it is studied. Folk history, according to this ethnohistorian, 'denotes the historical beliefs of other societies and cultures,' but the aim of ethnohistory is 'to reconstruct, using all available materials, 'what really happened' in terms that agree with our sense of credibility and our sense of relevance... In a folk history we attempt to find what people in another society believe 'really happened,' as judged by their sense of credibility and relevance.' Finally he uses the magic words: 'Thus, the methodology of ethnohistory is

essentially 'etic,' while the methodology of folk history is essentially 'emic.'" (Danielson 1984:179).

"Ethnohistory is the technique that is now used to write native history. Recognizing that no single source provides the key to unlock the past, ethnohistorians use oral tradition, ethnography, and archaeology as well as the written record. Even the earliest documents were written by Europeans who observed Native cultures that were changing, often very rapidly. Therefore oral tradition and archaeology are particularly important for understanding Native cultures prior to the arrival of Europeans in North America. All of these sources must be critically evaluated, for each one has its own particular power as well as its deficiencies. And all of these sources must be used in conjunction: each one used to verify the others" (Fisher 1992:47).

"It appears that ethnohistory, to most people who profess to be ethnohistorians, is simply the history of nonliterate people. Even more often it turns out to be the study of the past of nonliterate groups as gleaned from the records of literate peoples with whom they have come into contact. In other words, and in the present case, it is the history of Indians based on evidence written by someone other than Indians themselves. Fortunately, there is more than the one-sided, ethnocentric, documentary record to enable the scholar to piece together the past of nonliterate societies. There are the data from archaeology, from ecology, from physical anthropology, from historical linguistics and lexicostatistics, from ethnography, and from oral testimony upon which to draw for [sic] reconstructions" (Fontana 1969:366).

[Following Sturtevant, we could] "define ethnohistory as the beliefs about the past shared by members of a society... Adopting a term coined by R.G. Collingwood, Evans-Pritchard distinguished between history, events in the past, and 'incapsulated' history, the beliefs which contemporary people have about these past events..." (Hudson 1966:52). [Hudson follows with objections to both usages] "As an alternative to Evans-Pritchard's and Sturtevant's terms, I propose that we use 'folk history' to denote the historical beliefs of other societies and cultures" (Hudson 1966:53).

"The aims of research on folk history and ethnohistory are fundamentally different... the aim of ethnohistory is to reconstruct, using all available materials, what 'really happened' in terms that agree with our sense of credibility and our sense of relevance. In contrast, in folk history we attempt to find what people in another society believe 'really happened,' as judged by their sense of credibility and relevance. Furthermore, recognizing the fact that few historians are satisfied with mere narrative, the aim of ethnohistory is to explain what happened in terms that make sense to us. Again, the contrast in folk history is that one attempts to find out how members of a society explain why things happened the way they did. Thus,

the methodology of ethnohistory is essentially 'etic,' while the methodology of folk history is essentially 'emic'... (Hudson 1966:53-54).

"Of ethnohistory there are two principal definitions: (1) *Use of written historical materials in preparing an ethnography* (often a reconstruction of a culture as of one past period), the documentary data supplemented if possible by the memory of informants or else the 'memory culture' supplemented by historical records...*or use of historical materials...to show culture change.* (2) *Use of a people's oral literature in reconstructing their own history*" (Lantis 1970:5).

"Ethnohistory has been defined, explicitly and implicitly, in several ways. Many of these definitions can be paraphrased to read, 'ethnohistory is (the study of) the history of the peoples normally studied by anthropologists.' Attending to the two meanings of 'history,' we find a reversal of the normal usage: anthropologists defining ethnohistory tend to specify that it relies on written documents (the narrow definition of history), whereas historians tend to use the label only for studies of the past of societies wherein written records are lacking or scanty (the broad definition of history). Anthropologists view the field as, essentially, the use of non-anthropological evidence (that is, historical documents) for anthropologists' purposes, whereas historians see it as the use of non-historical evidence (that is, anthropological data) for historians' purposes...Among additional dimensions are: concern with history as we understand it, or with the characterization of other, 'folk,' views of history" (Sturtevant 1966:6-7).

"There...seems to be a tacit agreement that ethnohistory uses documentary evidence and oral traditions to study changes in non-literate societies from about the time of earliest European contact" (Trigger 1982:2).

"The term ethnohistory, so widely used today by historians, anthropologists, and sociologists, is probably the cause of as much confusion as illumination, and as much misapplication as precision. This does not have to be so. Surely much of the confusion is the result of a penchant to define ethnohistory as a subject *per se*, rather than as a methodology... Ethnohistory is best defined as the use of ethnographic and traditional documentary evidence within a methodological framework which combines the best analytical techniques of both history and anthropology" (Wylie 1973:707-708).

6.11 CONTESTED PASTS

"A question central for historians, anthropologists, and others becomes 'what is the fate of expert knowledge of the past as members of the crafts or guilds of the historical disciplines recognize, or are forced to recognize, the immense power created as people popularly process the past outside the work of the guild? ...One

is presented with a far more spacious and challenging view of history--of telling of the past--in which it is recognized that there are *multiple locations of historical knowledge*." (Cohen 1994:4).

"Who speaks for Native Americans? Who commands authority over, and what evidence holds power within, the authenticization processes of legal challenges by Native Americans concerning their status, their lands, and their autonomy in the United States? Who is empowered to tell the history of Native Americans? In American civil life, who determines the definition of who is or is not a 'Native American'?" (Cohen 1994:79).

Questions have been raised concerning *the authority of the text*. "Moreover, the relationship between popular productions of knowledge and those of the guild has been prominently implicated as historians and anthropologists observe closely the ways in which their own texts are socially constituted as authority" (Cohen 1994:241).

Historians, and anthropologists concerned with the past and with history will in future years have to confront more directly the ways that popular and official constructions of the past, as well as political suppressions of historical knowledge, shape and deform the processes of knowledge production and the general knowledge of the past in the world" (Cohen 1994:244).

"...oral tradition seems to give us an opportunity to learn more than simply new facts. Frequently, orally narrated accounts actually challenge historians' ideas about what a 'fact' really is" (Cruikshank 1991:141).

"Aboriginal oral tradition differs from western science and history, but both are organized systems of knowledge that take many years to learn. Oral tradition seems to present one way to challenge hegemonic history. It survives not by being frozen on the printed page but by repeated retellings. Each narrative contains more than one message. The listener is part of the storytelling event too, and a good listener is expected to bring different life experiences to the story each time he or she hears it and to learn different things from it at each hearing" (Cruikshank 1992:33).

"...concerns about *voice* in human history--whose voices are included and whose voices left out" (Cruikshank 1994:147).

"...I was struck by how clearly our academic narratives can be seen as only one set among many. When we listen to contemporary Aboriginal people draw on oral narratives to explain the ways past connects with present, we encounter other narratives that compete with academic narratives for legitimacy" (Cruikshank 1994:147-148).

"...the issue of how one claims a legitimate voice in contemporary discussions about historical reconstruction... Despite growing scholarly interest in indigenous ethnohistory, Native Americans' views of their own history remain rare in scholarly literature. As Sergei Kan has pointed out, those that do enter this literature demonstrate that (a) the past is regularly used to make sense of the present and to explain the current predicament of indigenous peoples in North America, and that (b) this discourse does not develop hermetically but in a dialogue with other ideologies" (Cruikshank 1994:149).

"Based on lengthy conversations with Dene men in the Mackenzie valley, Rushforth discusses how, in Dene society, knowledge comes to be seen as legitimate when it is based on what he calls primary experience. He provides examples of Dene men who spoke to the Mackenzie Valley Pipeline Inquiry from their own experience about land-based activity and how they place far greater value on that knowledge than on that provided by 'expert witnesses' several steps removed from direct experience. He proposes that for Dene hunters, primary experience is the epistemological foundation of knowledge and is given far greater weight than secondary experience. Using the Mackenzie Valley Pipeline Inquiry as a case in point, he shows how expert systems invoked in hearings are resisted precisely because they threaten local authority. Indigenous people repeatedly assert the authority of their own local knowledge and reject the validity of those expert systems, which they see as derived from second-hand knowledge rather than from direct experience" (Cruikshank 1994:162).

"Increasingly, we understand that histories are interpretations that change in relation to changing circumstances. However, this ideology coexists with a competing ideology of history as 'just the facts'... Ironically, historical relativism gets invoked more frequently for indigenous history than for mainstream history: in the Yukon Territory, for example, the goldrush and the Alaska Highway are taken for granted as reference points for local history and juxtaposed with Aboriginal narratives 'about' the goldrush or the highway. Thus constituted, relativism reinforces the legitimacy of mainstream history by making it seem more 'real' or more 'truthful' (Cruikshank 1994:162-163).

"The emerging recognition of the 'native point of view' and of the right of Aboriginal peoples to represent themselves is primarily a consequence of the ongoing struggle Aboriginal peoples have engaged in since the advent of colonialism, a struggle that has resulted in a significant increase in indigenous political power throughout the colonized world since the end of World War II" (Culhane 1992:68).

"...the contemporary generation of anthropologists have had to come to terms with indigenous critiques that have charged, and often proven by their own ethnographic endeavours, that many of the descriptions written by previous generations of ethnographers were at best limited and partial, and at worst inaccurate and

wrong..." (Culhane 1992:69).

"Anthropologists, for the most part, have attempted to respond to these challenges by acknowledging the legitimacy of aboriginal self-representation and by developing a critique of their own theories and methodologies. They have insisted that Aboriginal peoples and cultures be understood as legitimately existing on their own terms and within the framework of their own categories and analysis. The auto-critique of their discipline that contemporary anthropologists have been engaged in has shown, in particular, the extent to which traditional anthropological theories, and research guided by them, have reflected ethnocentric ideology rather than any putative scientific objectivity..." (Culhane 1992:70).

[Fienup-Riordan (1988) discusses discrepancies between anthropological reconstructions of Apanuugpak culture on the one hand, and natives' and movie scriptwriter's reconsideration or "invention" of their tradition or past culture.]

"With ethnography's own authority in question, anthropology's chief use is not in standing up for the accurate representation of the pure culture of the past but in clarifying the significance of action in the present" (Fienup-Riordan 1988:454).

"The particular form of historical consciousness in the West normally entails written documents, and such entailment poses special epistemological dilemmas for ethnohistorians. How do we account for the histories of so-called 'peoples without history,' those who lack accustomed libraries and archives of documents? ...An understanding of non-Western histories requires not only the generation of documents and an expanded conception of what constitutes documentation but also a determined effort to try to comprehend alien forms of historical consciousness and discourse. It was in this spirit that I once, in exasperation, suggested the necessity for what I termed an ethno-ethnohistorical approach (Fogelson 1974). Such an approach insists on taking seriously native theories of history as embedded in cosmology, in narratives, in rituals and ceremonies, and more generally in native philosophies and worldviews. Implicit here is the assumption that events may be recognized, defined, evaluated, and endowed with meaning differentially in different cultural traditions" (Fogelson 1989:134-135).

"Paul Ricoeur (1980:8) isolates five major characteristics of so-called positivist history: (1) an attitude of neutral objectivity, comparable to the physical scientist who is independent of the phenomenon he studies; (2) a reduction in focus to the collection and critical analysis of documents (including such things as their origin, provenience, date, or validity); (3) the assumption that historical fact exists preformed in the documents and merely has to be extracted or excavated; ...(4) explanation consists of relating particular events, or 'accidents,' to each other along a linear time line imposed by the documents; and (5) the individual is taken to be the ultimate locus and transmitter of historical change" (Fogelson 1989:135).

"Value-free, empirical, objective history...may be for some an ideal in historical research, but is an ideal that is impossible to realize simply because historians are never free from history. There is continual interaction between past and present" (Fogelson 1989:135).

By an anthropology of history Sahlins intends a relativistic, pluralistic approach in which Western history is also considered as a cultural production--one among many--with no privileged claims to universal truth" (Fogelson 1989:138).

"Western historians, and especially the archaeologists, believe that Navajos migrated into the Southwest from the Great Plains several hundred years ago. Some Navajos believe just as firmly that they emerged *in situ* from the underground, and that any talk of recent migrations from the Plains is nonsense. Archaeologists say they are right; Navajos say they are right. The anthropologist might argue that each is right in terms of the rules of his own game. And who, really, can say?" (Fontana 1969:370).

[Hallowell discusses the temporal orientation as a cultural construction] "In some American Indian languages the terms for day-before-yesterday and day-after-tomorrow are the same" (Hallowell 1937:652).

[Hallowell discusses reckoning of past events] "The recognition of a yearly interval by no means implies that the year as a temporal unit functions very actively in native life and thought... Among the Saukteaux, so far as age is concerned, instead of a chronological year count, the life cycle of individuals was divided into a number of terminologically distinguished age grades corresponding to maturation stages... Such terms, correlated with references to occurrences extrinsic to the individual, such as the signing of the Treaty, the advent of the missionaries in different settlements, the tenure of Hudson's Bay Company post managers and the Great War, or events in the life history of individuals--marriage, journeys, former hunting grounds, customary campsites, etc., are sufficiently exact, though unformalized, points of reference for purposes of native temporal orientation" (Hallowell 1937:665-666).

"Like ourselves, the Nunamiut distinguish between true history (koliaqtuaq) and imaginative stories (unipquaq). However, the Nunamiut sense of credibility--the means by which they judge which events are true history and which are not--is quite different from our own" (Hudson 1966:56).

"The rhetorical force of historical prose usually depends upon the single solution, the *true* presentation of the past. Yet because historical rhetoric is based on an argument from authority in which the evidence broadly construed is the authority, the tendency of such rhetoric is to eliminate rather than entertain possibilities" (Kellner 1975:291).

"...First Nations voices are challenging the veracity of anthropologists' ideas and reliability of their information. They are dismissing anthropologists' comfortable interpretations and questioning anthropologists' motives--in classrooms, in print, in interviews" (Kew 1994:83).

"The challenges to anthropology by First Nations for 'return of voice' and for repatriation of ancestors' remains and cultural treasures are fundamentally an assertion of social power" (Kew 1994:92).

"...native 'history' is not history in our sense any more than the fact, even if true, of my neighbor's cat having kittens is history...The utmost I am able to concede is that a tradition referring to the remote past may furnish a starting-point for linguistic, archeological, or other investigations; but our knowledge of native *history* will in the end depend wholly on the result of these inquiries" (Lowie 1915:599).

"...If we do not accept aboriginal pathology as contributions to *our* pathology, if we do not accept aboriginal astronomy, biology, or physics, why should we place primitive history alone on a quite exceptional pedestal, and exalt it to a rank co-ordinate with that of our own historical science? This is the, to my mind, absolutely conclusive argument, which is independent of, though strengthened by, the number of cases, really tremendous, in which the glaring disparity between primitive history and our conception of the physical universe renders acceptance of tradition impossible. The really interesting problem to me is, not what degree of importance shall be attached to so-called historical traditions, but what psychological bias could conceivably make scholars attach greater weight to aboriginal tales of migration than to aboriginal beliefs as to levitation or the origin of species. While in the nature of the case demonstration is impossible, I have a very strong suspicion that lurking behind the readiness to accept primitive for real history is the naive assumption that somehow it is no more than fair to suppose that people know best about themselves. This assumption, of course, need only be brought up into consciousness to stand revealed in its monstrous nakedness. The psychologist does not *ask* his victim for his reaction-time, but subjects him to experimental conditions that render the required determination possible. The palaeontologist does not interrogate calculating circus-horses to ascertain their phylogeny. How can the historian beguile himself into the belief that he need only question the natives of a tribe to get at its history?" (Lowie 1917:162).

"It may be objected that primitive astronomy and natural history *do* coincide in some measure with our equivalent branches of learning, and that consequently there is a presumption in favor of the view that primitive and civilized history also overlap. To urge this is to ignore a vital aspect of the situation. We accept primitive observations of the stars or on the fauna or flora of a country as correct in so far as they conform to what we independently ascertain by our own methods. However, we neither derive the least increment of knowledge from this primitive science nor

are we in the slightest measure strengthened in our convictions by such coincidence. Exactly the same principle applies to the domain of history. When a Crow tells me that his tribe and the Hidatsa have sprung from a common stock, this is correct but purely superfluous information, for I arrive at this result with absolute certainty from a linguistic comparison" (Lowie 1917:163).

"...both the Tlingit and the Athabascans have what appears to be a high tolerance for discontinuity in time, in the sense that it is possible for myth-time to exist simultaneously with either the present or the recent past. This is because the quality of myth-time appears to count as much as, if not more than, its temporal position" (McClellan 1970:116). "While their decisions certainly involve more than temporal considerations, the point for us is that the ethnohistorian must not expect the Indians to handle time in the same way that historians do" (McClellan 1970:118).

[McDonald et al. (1991) explore the recent Northern Cheyenne use of oral history and archaeology "as tools of resistance"]. "The Cheyenne Outbreak is a quasi-classic story of the American West, well documented from the white point of view in book...and film. To allow a challenge by Indians to the historical view undermines a vital tool of domination: the fact that *victors* write the history of events, especially of the subordinated group's efforts at resistance" (McDonald et al. 1991:74).

"For the dominant society, even educated audiences capable of evaluating the factuality of the particular case, succumb to the constant repetition which reinforces dominant culture ideologies. Even for those in the subordinate culture, the repeated structures can eventually become accepted and the subordinated thereby participate in their own oppression. Greater historical accuracy, one might think, should ameliorate the problem, but such is not the case. History and its auxiliary science of archaeology become part of the architecture by which people are dominated" (McDonald et al. 1991:75).

"Most people, including most archaeologists, might assume that the history or prehistory they write is basically value-neutral, simply a telling of events as they occurred at some time in the past. Few might recognize that the historical disciplines themselves are products of Western tradition and thereby can become tools for use in the subordination of non-Western peoples" (McDonald et al. 1991:75).

"As a case in point, Native Americans have been profoundly disturbed at archaeological constructions of an Indian past. At the broadest level, for example, archaeologists believe that the idea that the Indians' ancestors crossed the Bering Land Bridge sometime during the last glaciation is founded on incontrovertible evidence. Many traditionally oriented Indians, on the other hand, dispute an Asiatic origin and claim that their people were created in place during some ancient time"

(McDonald 1991:75).

"Since the 1960s many non-Indian notions and images of the American Indian have changed substantially from earlier periods. Indian political resurgence has defiantly claimed 'the right once again [for Indians] to make their own choices'...Among the many rights claimed is the right to a control over the telling of their own past" (McDonald 1991:75).

"The denial of these self-representations (particularly those in the form of unique oral narratives which represent the collective experience of social groups, at least as constituted at one moment) makes the lives of Native people especially vulnerable to misrepresentation and simplification" (Miller 1992:56).

"The Gitksan and Witsuwit'en do indeed have a different appreciation of what constitutes evidence than does the Western legal system. The oral traditions of both the Gitksan and Witsuwit'en exist in a kind of dream time that has been described for Australian aborigines. Anthropologist Claire Farrer has described this sense of time for contemporary Apache... Farrer describes how the present-day Apache operate in and metaphorically move in and out of the 'mythic present' and the 'lived present.'" (Mills 1994:30).

Westerners, including anthropologists, usually do not accept Native accounts as valid history because they are based on different premises than are Western canons of evidence. Kungax that include marriages of humans to animals and journeys to villages under the sea, or the ravages of monsters that not only lived but still live in lakes in Witsuwit'en territory, tend to be considered as allegory rather than as historical fact by a Western audience" (Mills 1994:73).

"We can safely assume that significant events in a people's history are recorded and encoded in their oral tradition. While they are not described in the same terms a geologist or modern historian or ethnographer would use, they nonetheless provide a principal source of information about their origins and ancient history" (Mills 1994:76).

"There is another reason to be vigorous in our defence and promotion of the oral tradition: for the sake of the Indian people themselves. The modern form colonialism takes evidently extends to their conception of their own history. In a recent issue of *Cree Ajeemon*, a Cree produced journal, I was dismayed to find in an article on the Chibougamau Crees that the Cree writer cites my historical work, based on specially commissioned research in the archives, as evidence of their past existence as a band. However he has omitted any reference to the testimony [of individuals] who make up this band. This new phenomenon of land claims negotiations, the rules of which are set by the government and courts, is discrediting their historical accounts and forcing them to find evidence in the documentary

record...I think as anthropologists and ethnohistorians we have a responsibility to help repatriate the Indians' past in the form of their oral history" (Morantz 1984:187-188).

[re: Historical objectivity or the objectivist creed] The principal elements of the idea are well known and can be briefly recapitulated. The assumptions on which it rests include a commitment to the reality of the past, and to truth as correspondence to that reality; a sharp separation between knower and known, between fact and value, and, above all, between history and fiction. Historical facts are seen as prior to and independent of interpretation: the value of an interpretation is judged by how well it accounts for the facts; if contradicted by the facts, it must be abandoned. Truth is one, not perspectival. Whatever patterns exist in history are 'found,' not 'made.' Though successive generations of historians might, as their perspectives shifted, attribute different significance to events in the past, the meaning of those events was unchanging. The objective historian's role is that of a neutral, or disinterested, judge; it must never degenerate into that of advocate or, even worse, propagandist. The historian's conclusions are expected to display the standard judicial qualities of balance and evenhandedness. As with the judiciary, these qualities are guarded by the insulation of the historical profession from social pressure or political influence, and by the individual historian avoiding partisanship of bias--not having any investment in arriving at one conclusion rather than another. Objectivity is held to be at grave risk when history is written for utilitarian purposes. One corollary of all this is that historians, as historians, must purge themselves of external loyalties: the historian's primary allegiance is to 'the objective historical truth,' and to professional colleagues who share a commitment to cooperative, cumulative efforts to advance toward that goal" (Novick 1988:1-2).

"Ideas are frequently defined with reference to what they oppose... in the last half-century 'objectivism' has struggled against 'relativism.' The latter term refers not to a positive position but rather to a critical stance vis-a-vis various elements in the objectivist synthesis, and, in general, doubts about the coherence of the notion of objectivity as applied to history" (Novick 1988:3).

"...the present period of confusion, polarization, and uncertainty, in which the idea of historical objectivity has become more problematic than ever before" (Novick 1988:16-17).

"There is no satisfactory term with which to describe the multiple but loosely convergent assaults on received notions of objectivity which swept across the academic world from the 1960s onward. The most common designation is 'postmodern' ...the locution is symbolic of a circumstance of chaos, confusion, and crisis, in which everyone has a strong suspicion that conventional norms are no longer viable, but no one has a clear sense of what is in the making" (Novick 1988:523).

[According to Paul Thompson] "Given the (debatable) postulate that traditional documentary history always reflects authority and the powers that be, oral history will redress the balance (indeed go further): one selects the sources (interviewees) to ensure 'a challenge to the established account'...[However,] In Australia, what Thompson calls the myths of history are not at all Tory or authoritarian in focus; they are about diggers and bushrangers and the like, the archetypal common man. Australian history has been traditionally the vehicle and medium of the political left: what oral history offers here...is far from any 'challenge to the established account', but rather, vastly and tediously, more of the same" (O'Farrell 1979:5).

"...oral history represents the democratization of a discipline which too often has been elitist" (Perdue 1980:xix).

"...the current holdings of Canadian archives are the archives of white, middle and upper class, European adult men... Oral history can digress the imbalance in the record by giving a voice to the unheard; by giving a place in posterity to the previously anonymous; by giving an image to the previously invisible. Ethnic groups, native people, women and children can be given a documentary basis in oral history which would otherwise be non-existent" (Reimer 1981:30-31).

"Oral history has enabled historical research to expand beyond the study of elites" (Reimer 1984:2).

"For years oral historians argued the respective merits of 'elite' versus 'nonelite' interviewing. By the 1980s that debate had tapered off and oral history projects had grown more all-inclusive. The more interviewers studied their practice, the more they realized that no one group had an exclusive understanding of the past and that the best projects were those that cast their nets wide, recording as many different participants in events or members of a community as possible" (Ritchie 1995:5).

"Historiography, whatever its guiding lines, is generally based on documentation in one form or another, thus dealing with a restricted class of people and with selected events. Oral history is based on the evidence of a much broader group of people and is therefore much more democratic in its approach" (Seligman 1989:176-177).

[re: Isabelle Shay, a Micmac woman, describes her oral history project] "The greatest obstacle that I have had to overcome was the fact that culturally ours is an oral tradition. I found that the majority of the people even the educated, feel threatened when Wabanaki traditions are written down. The general feeling is that people will no longer talk to their children, who will go to the books for their information... Also, most very old people feel threatened by tape recorders. Even if they agree to being taped, they will say a few words or sing a little song and then withdraw" (Shay 1989:4).

"Studies of folk history need not involve evaluation of the validity of tradition as historical evidence in the academic sense, although in fact most such studies have mixed these two approaches and not clearly distinguished the description of folk history as a system of knowledge and belief from comparison of it with academic historiography" (Sturtevant 1966:22-23).

"The struggle for possession and interpretation of memory is rooted in the conflict and interplay among social, political, and cultural interests and values in the present. The actors appeal for popular support by claiming the sanction of the past" (Thelen 1989:1127).

"Reality is complex and many-sided; and it is a primary merit of oral history that to a much greater extent than most sources it allows the original multiplicity of standpoints to be recreated... Since the nature of most existing records is to reflect the standpoint of authority, it is not surprising that the judgement of history has more often than not vindicated the wisdom of the powers that be. Oral history by contrast makes a much fairer trial possible: witnesses can now also be called from the under-classes, the unprivileged, and the defeated. It provides a more realistic and fair reconstruction of the past, a challenge to the established account. In so doing, oral history has radical implication for the social message of history as a whole" (Thompson 1988:5-6).

"By an easy imperialism, academic literate historians tend to treat oral evidence as grist for their own mill without always recognizing that people tell history for themselves and in their own way. Even to record this history in writing turns it into something else. So powerful are the structuring rules internalized by literate education that even the avowedly radical British oral historians who try to give back the people their voice seem not to realize that it is no longer *oral* history they have made" (Tonkin 1982:330).

"Some native people object that Euroamerican ethnohistorical interpretations of native history are offensive insofar as they contradict the traditional views that native people hold, or have held, of their past. For these people, the claim that Native Americans reached the New World by crossing the Bering Strait is incompatible with the belief that the ancestors of the Onondaga and Seneca sprang from holes in the ground at Nundaweo. There have long been similar disagreements among Euroamericans between those who accept the interpretations of the past advanced by scientific disciplines and those who espouse the beliefs of fundamentalist Christian sects. I do not believe, however, that respect for traditional cultures should exclude a scientific study of Native American history" (Trigger 1982:6).

"Where traditional native concepts about the past are fundamentally different from Euroamerican ones, it may be necessary to differentiate sharply between the study of such beliefs and conventional ethnohistorical research" (Trigger 1982:6).

[The majority of native activists] "argue that native people should write their own history as a means of controlling their own destiny. Like other partisans, they seek to use historical data to establish images of the past that help to promote their political programs. They claim, no doubt often believing it to be so, that interpretations of native history and customs that they hold to be unflattering result from misleading Euroamerican prejudices and attempt to demonstrate the falsity of these views. Examples of such behaviour include denials that particular native groups ever tortured captives or abandoned aged and infirm members. On the other hand, when traditional Euroamerican claims are held to be more favorable, efforts are made to reinforce and intensify these stereotypes. This has been so especially with the widely-held belief that all Native American cultures were attuned to respect and preserve their environments, a view that has made Native Americans appear to be forerunners of the modern ecology movement" (Trigger 1982:7).

"Native Americans have not yet succeeded in producing a truly decolonized version of their own history. This alone puts them in a poor position to criticize Euroamerican ethnohistorians. While the recruitment of native people into ethnohistorical research is highly desirable, as a general principle no scientific or moral arguments can be advanced for restricting the study of history to members of the ethnic group being investigated. On the contrary, American or German history is greatly enriched precisely because British, Russian, French, and Italian, as well as American or German historians study it" (Trigger 1982:7-8).

"...the temptation to twist the findings of ethnohistorical research to suit the aims of political movements or to satisfy a taste for revisionist history can only be indulged in at the expense of valid historical interpretation. Public wrongs cannot be stoned or excused merely by rewriting history, even when this is done accurately and conscientiously. Even less can they be atoned by abandoning scientific standards in historical studies. If professional historians allow a past-as-wished-for to subvert their endeavor to understand the past as it really was, they will fail to provide a valid, and hence a useful, guide to understanding past relations between Euroamericans and native people" (Trigger 1982:8).

"Insofar as Native Americans did not subscribe to a Western concept of history, the basis for all Anglo-European judgements of significance, he [i.e., Lowie] doubted native traditions would be useful. As his conclusions implied, arguments about the nature of significance in history only thinly disguise the degree to which the significance of history is dependent upon the uses to which it is put and the perspective which generates the need for it... As Bernard Fontana points out, such judgements of significance depend on one's frame of reference" (Wiget 1982:181).

"As Fontana points out...the difficulty is that our 'aim is to get at the Indians' points of view, the question of veracity in our terms has little to do with it. It is veracity in their terms which counts" (Wiget 1982:182).

6.12 ORALITY AND LITERACY

"My argument in this paper is that history which is communicated orally, when compared with written history, can be seen as constituting a different kind of historical record from that contained in and compiled from written documents, that it is *complementary*, rather than *supplementary*, to written history" (Allen 1979:113).

"Both written and spoken history are products of the same process of selectively characterizing past events. The sense of incompatibility between them, which has kept historians from incorporating orally communicated historical information into written histories seems to lie in their respective points of view: the generalized vs. the personal... Both points of view are historically valid. Written history provides the framework for interpreting the past; orally communicated history documents the human implications of the historical events with which written history deals" (Allen 1979:117).

"Orally communicated history is a valid and valuable source of historical information, as oral tradition and formal history complement one another. Each body of knowledge possesses qualities that, taken together, form a fuller historical record" (Allen and Montell 1981:3)

"First, orally communicated history can *supplement* written records; second it can *complement* what has been documented in formal history; and third, it can provide information about the past that exists in no other form" (Allen and Montell 1981:15).

"Written records speak to the point of *what happened*, while oral sources almost invariably provide insights into *how people felt about what happened*" (Allen and Montell 1981:21).

"In the oral history process a man's voice is ultimately reduced to pages of typed material. Historians find it easier and less time consuming to analyze and use oral history accounts if they are typed. In the transcription, however, much is lost because a man's physical voice disappears" (Benison 1965:75-76).

"Some of the problems and methods of dealing with oral evidence are, then, not different from those familiar to western historiography since Thucydides, whose own sources of history were partly oral" (Bynum 1973:11).

"Science and oral tradition provide two distinct approaches to knowledge, developed in two different institutional settings and based on markedly different premises. One combines the written contribution of different individuals: each generation of students can consult vast libraries and build on past theories. The other is more selective: what survives is the collective social thinking of the group rather than

discrete individual contributions" (Cruikshank 1981:86).

"Oral and scientific traditions not only speak from different perspectives; they are passed along in different ways. Oral traditions survive by repeated retellings, and each narrative contains more than one message. The listener is part of the storytelling event too, and is expected to think about and interpret the messages in the story... Oral tradition is like a prism which becomes richer as we improve our ability to view it from a variety of angles... Scientific information is usually circulated in written form, in journals or in books. Once accounts are written down they can be stored unchanged. Unless they are physically destroyed, they can be reread and inspected by anyone who goes to a library to read them" (Cruikshank 1991:12).

"Literate preference for the written over the oral word also causes difficulty. In order to study oral events, and relay them to other literate people, the speech event must be transcribed, be 'written down'. In the process, what is an essentially dynamic oral event becomes static, invariable or even 'petrified' in written form, to use a term of Lord (193:193). In spoken form the word is repeated and transformed every time it is used. Once written, the word can only with difficulty be changed. Consequently, written 'oral literature' is a very different phenomenon from its spoken form" (Edwards and Sienkewicz 1990:1-2).

"The literate observer can find a safer path by thinking in terms of an oral-literate continuum which recognizes the skills of the oral performer and, at the same time, does not view the literate person as hopelessly cut off from oral skill. From this perspective, the written word does not divide so much as the spoken word unites the aliterate and the literate; that is, the presence of literacy does not remove all trace of orality, nor must an oral culture always function independently of literacy" (Edwards and Sienkewicz 1990:6).

"Although oral cultures have been studied in many different disciplines, including folklore, anthropology, sociolinguistics, classics and literary criticism, for many years there was little pooling of ideas. Only in relatively recent times has there been any significant interdisciplinary convergence... [Scholars] are now reaching a consensus on a number of important points. For instance, there is widespread agreement that orality and literacy are best seen as the poles of a single continuum rather than as a dichotomy. It is also widely accepted that the notion of performance is essential for an appreciation of orality, and that performance necessarily involves both good talkers and their audience" (Edwards and Sienkewicz 1990:215).

"...truth in the Rankean sense of "how things really were", was neither an important consideration nor a claim one could substantiate. Acceptance and belief were what counted, and the Greeks had all the knowledge of the past they needed without the help of historians. The poets took care of the heroic past; for the rest, specific traditions, largely oral, were sufficient... Even in the fourth century, after Herodotus

and Thucydides, Athenian orators still clung to their traditional myths and their popular history, utterly indifferent to the new knowledge and the new conceptions" (Finley 1965:299).

"What presents itself is not the usual phenomenon of an object text, but rather a continuous *tradition* of text-making and -remaking which has, in effect, no texts (as we understand them) until the performance of this or that moment in time is written down and the process is, for better or worse, frozen" (Foley 1981:27).

"This [Oral history] technique has two main roles in social scientific research: firstly, to complement and confirm the written historical record; secondly, to generate new information and ideas by asking questions that cannot be answered from the archives" (Gant 1987:27).

"In other words, a respondent during an interview is interpreting and reconstructing his or her own history, in a way not dissimilar to an historian's attempt at interpreting and reconstructing history using different sources. If this is borne in mind then interviews can be viewed as a valid historical source. Recollection as a process of selection can also be seen as a valid, if necessarily subjective, source in itself for analysing those aspects of a respondent's life which are interpreted by her or him as being the most salient" (Gittins 1979:93).

"...I have been trying to specify certain differences between oral and literate cultures, or, more precisely, to outline certain implications of the introduction of the written register... there is evidence that, when the written mode achieves a dominant cultural position, the result is a systematic devaluation of, not so much the oral register itself (we understand that we have to speak to each other, and that we have to speak well to influence others), but of ...forms of knowledge that are not acquired through books..." (Goody 1982:201).

"It is clear that most of our knowledge does not come to us directly from the outside world. It is mediated by books, magazines, and newspapers... An 'authority' may even be a book, or someone who has read them studiously and can explain their message to others; it is not even necessary for him to make his own contribution to knowledge. He is the acknowledged mediator... [In oral societies] the elders are the embodiment of wisdom; they have the largest memory stores and their own experience reaches back to the most distant points. With book cultures, particularly with mass cultures of the printed word, the elders are by-passed..." (Goody 1982:213).

"...while writing may replace oral interaction in certain contexts, it does not diminish the basically oral-aural nature of linguistic acts. Strictly speaking, therefore, it is a mistake to divide 'cultures' into the oral and the written: it is rather the oral and the oral plus the written, printed, etc." (Goody 1987:xii).

"In the present discussion the term 'tradition' usually refers to specific aspects of the content composed in or transmitted through the oral (spoken) and written registers in a particular culture. But as we have seen, we make a mistake if we think of these 'traditions' as totally distinct from one another. There is bound to be constant interaction for reasons that are too obvious to mention" (Goody 1987:xiii-xiv).

"...the developed picture-writing of the Ojibwa can be described as mnemonic, that is to say, it can only be understood by someone who, in the case of the records of chants, has learnt the specific linguistic acts which the signs signify. In the case of records of legends and myths, however, it is not so much a mnemonic as a prompt, or rather a peg on which to hang a variety of possible versions" (Goody 1987:12).

"[Ojibwa birchbark scrolls used to transmit oral traditions of Midé shamans to disciples or candidates] "...the scrolls were secret documents, meant to act as a mnemonic for the initiate but not as a means of communicating information to the world at large" (Goody 1987:14).

[Goody (1987:17) distinguishes between descriptive and memory devices] "The first type of device was used by American Indians in making the peace treaties of wampum beadwork where an Indian may be represented as embracing or shaking hands with a White; in principle, understanding such signs does not depend upon understanding a particular language...The identifying-mnemonic (memory) devices are used not to describe an event, but to record or identify the words of a song, the actions of an individual, the events of a year. They may be abstract or pictorial, and are 'signs' of a sequential kind" (Goody 1987:17).

"I do not intend to argue that all records of oral testimony should be accepted as true. However...academic historians are no less subject to bias than oral-record keepers, while, of course, the writing down of records is no more a guarantee of their objectivity than of their truthfulness" (Harry 1990:34).

"By the mid-1970s, the familiar dichotomized notion of oral and literate societies had been revised; in the words of Hymes, 'it is impossible to generalize validly about 'oral' versus 'literate' cultures'" (Heath 1984:54).

"...historians do not react to these traces [of the past] passively but often augment their number. Oral historians are among the greatest of the adders since virtually none of the data they use are accessible before their research. In other words, for them collecting data involves turning data into evidence as well" (Henige 1982:1).

"Broadly speaking, there are four ways orally-derived and written sources relate to each other. They can be nearly identical in content; they can complement each other; they can contradict each other; or they can be so different as to have almost no common features even though they seem to be describing the same set of

circumstances" (Henige 1982:71). [Henige goes on to explain each category]

"...oral history is simply one among several primary resources. It is no worse than written documents. Archives are replete with self-serving documents, with edited and doctored diaries and memoranda written 'for the record'" (Hoffman 1984:72).

"...oral history is not a substitute for written records but a complement to them" (Hoopes 1979:12).

"...publications of non-Western oral literature must be written out in terms of the total literary event in the native setting, accompanied by all that needs to be said in order to reconstruct and explain that phenomenon to the outsider. In other words, publication of an exotic oral literature should comprise both the dictated version and the probable audience and community responses to it. The particular event should be set in its context. Until both the original version and the native responses to it are presented, we can know and appreciate little more of folklore than we know and appreciate of a conversation between two foreigners, only one of whose words are recorded" (Jacobs 1959:1-2).

"Many historians in social history fields seem to regard oral history as a research method of the last resort--to be used only when all other archival sources are exhausted. Even when oral history is employed, it often receives secondary status in footnotes and acknowledgements" (Lohead 1976:8).

[Oral history is a conversation which] "cannot be regarded as comparable to other documentary modes of inquiry. This is because the oral interview is a form of inquiry in which the evidence originates in the act of oral, face-to-face communication. The oral history interview is the joint intellectual product of a process wherein understanding is aided through speech and counterspeech. It is the intervention of the historian qua interviewer that serves as the impetus for the production of such historical data. The historian is the catalyst for as well as a participant in the creation of the historical record" (McMahan 1989:5).

"Traditionally historians have devoted themselves to finding out what actually happened, to reaching some kind of historical nirvana by uncovering the 'facts.' Coincidental with this concern is a belief that 'facts' are contained only in printed sources. Thus, J. Franklin Jameson felt safe in making the statement that all of man's history 'lies within the period since the invention of printing'... What historians such as Jameson fail to consider is that print preserves fictions just as easily as oral tradition does and variation can creep in from one printed version to another just as it does in information communicated by word of mouth" (McNeil 1982:34).

"...a blend of documentary and oral history is essential to writing honest, thorough histories of Algonquian peoples" (Morantz 1984:171).

"Having myself completed a first attempt at writing an Algonquian regional history based on documentary sources... I feel it behooves me to demonstrate the richness and accuracy of the oral tradition by showing how the documentary and oral accounts complement each other to form a more complete, vital portrayal of events" (Morantz 1984:172).

[Morantz (1984:185) points out that a reliance on written records cannot achieve the goal of objectivity since such records can be biased]

"Documentary history is the mainstay of archives and of the more traditional historians. There are several assumptions implicit in documentary history, and there are some assumptions made quite explicit by its adherents. In the eighteenth and nineteenth centuries, such figures as Leopold von Ranke and Charles Seignobos advocated limiting the proper focus of history to documents and analysis of their form, content, and relationships to each other... That school taught that documents, kept in archives and safe from tampering, are unchanging and therefore reliable, while human memory tends to be self-serving and tainted by events subsequent to the history being studied" (Moss 1988a:8).

"Oral traditions are quite different from documents. Documents record discrete, individual human transactions. They are, individually, discretely limited to place, time, and action, and can only be made significant over a long term by being placed in sequences to show developments over time or space, and read in relation to each other as building blocks in a structure of evidence. Oral traditions, on the other hand, are broad understandings of the past that arise organically in and out of the cultural dynamics of an evolving society. They are transmitted orally, and only orally, from person to person. They are spontaneous expressions of the identity, functions, customs, purposes, and generational continuity of the group of people among whom they arise. They come about and exist quite apart from any written language or recording devices and do not depend on them for durability" (Moss 1988a:9).

"...once an oral tradition is captured on tape or in writing, what is captured becomes a document. In a sense it is no longer alive but rather like a slice of tissue on a slide under the microscope of history. Like other documents, it is but a representation of a moment in time, an abstraction from the continuum of human experience, a suggestive benchmark. It soon loses congruence with the developing and evolving oral tradition that changes with the changes in the society. There are even possibilities in which the captured oral tradition may become an embarrassment in a society that has modified the 'live' oral tradition to meet emerging difficulties. Or it may be used as a legal weapon in judicial proceedings where one claimant may rely on the current interpretation from the 'live' oral tradition but the other seeks advantage in the *status quo ante* and can cite the 'document' as the 'real' and hence more reliable criterion for judgement" (Moss 1988a:10).

"...the material which I have seen causes me to be skeptical about the argument which is heard from time to time that the oral record is no different in character from any other historical record, and that all kinds of evidence must be viewed equally critically. It is true, of course, that the historian can never forget his responsibility to subject all his evidence to careful scrutiny and certainly he can be easily led astray by more traditional kinds of documentation. Nonetheless I would argue that because the oral record is a conscious and in some ways artificial construct prepared some time after the event in question, that it is therefore different in kind from other types of evidence the historian uses" (Oliver 1976:17).

"Is my culture so radically different from primary orality? I move into orality in my marital and domestic affairs. I move from the literate and electronic as soon as I have a well-prepared lecture and can speak off the cuff to my students. My comportment is a participatory one, sharing in the written and print tradition and then moving with scant reflection to the oral...So I have some experience of the oral world. It is not as if my work with the Plains Cree is entirely theoretical. There is a foundation in my experience of the oral, or a kindred experience with this other culture" (Pomedli 1992:335-336).

"The final result of this encounter is a transferral of the oral discourse to tape and then into written form. While this assures that the words will be preserved and may be recalled, it also freezes their fluidity...Thus, no matter how much we may talk about ourselves as 'oral' historians, the very technology of our work is to turn the oral into the written word, to freeze fluid materials at an arbitrary point in time" (Portelli 1981:165).

"It seemed reasonable to consult oral as well as written sources until the late nineteenth century, when the German school of scientific history promoted documentary research to the exclusion of other, less 'objective' sources. Leopold von Ranke asserted that documents created at the time historical events occurred are the most reliable form of historical evidence; Ranke's followers helped transform history from a literary form into an academic discipline dependent on the rigorous use of evidence. They trained historians to scrutinize documents in their search for truth and dismissed oral sources as folklore and myth, prized only by well-meaning but naive amateurs and antiquarians. They deemed oral evidence too subjective--shoddy memories told from a biased point of view" (Ritchie 1985:2).

"The texts presented on the pages of this book are all oral. In the process of this seemingly contradictory transformation--the writing down and the publication of orally performed discourse--all of the literary and scientific content of this work is brought to bear in one place... the papers in this book stand as a critique of some statements that have been made in recent years proposing an oral/written distinction... From our point of view, these statements do not come to terms with the nature of oral discourse, but tend rather to take written discourse as a model and

then view oral discourse as less complicated, less advanced, and seemingly deficient in relation to the written texts of literate, technological societies. Serious attention to the nature of oral performance in relation to social and cultural context and to the relationship among transcription, representation, translation, and analysis reveals that there is no simple dichotomy between oral and written discourse, between nonliterate and literate societies" (Sherzer and Woodbury 1987:9-10).

[Following Marshall McLuhan, Shores suggests that the form or the format of the medium may affect the content; this has implications for written versus taped oral history] "Is it therefore possible that this history some of us strive to write *Wie es eigentlich gewesen* can actually be changed by the format of the medium we use to convey records of an event?" (Shores 1967:38).

"The verbatim record of what oral historians obtain is...in one respect unique, in comparison with other forms of primary source materials. It is deliberately created solely for historical purposes" (Starr 1978:400).

"The traditional definition of history as a field of scholarship insists that it is based on the study of written documents...So the importance of written records is one central defining feature of history as a field of study" (Sturtevant 1966:2).

"Just why so many historians underestimate the importance of oral history is something of a mystery. The answer probably lies in our common background. We are simply not accustomed to thinking in terms of oral evidence. As graduate students, we are taught to rely primarily on the written record and to question the credibility of word-of-mouth evidence. Such unequivocal training is entirely proper, for the best history is always solidly based on the written evidence" (Swain 1965:63).

"Lord (1960) following Parry, had demonstrated that oral epics were not memorized but reconstructed at each telling through the imposition of formulaic phrases on the skeleton of a familiar plot... Formulaic expressions function as wholes, as a convenient way to signal knowledge that is already shared. In oral tradition, it is not assumed that the expressions contain meaning in themselves, in a way that can be analyzed. Rather, words are a convenient tool to signal already shared social meaning...As Olson (1977) puts it, 'the meaning is in the context'. In contrast, in literate tradition, 'the meaning is in the text'." (Tannen 1982:1-2).

[re: the oral/literate continuum in discourse] "...literate tradition does not replace oral. Rather, when literacy is introduced, the two are superimposed upon and intertwined with each other. Similarly, no individual is either 'oral' or 'literate.' Rather, people use devices associated with both traditions in various settings" (Tannen 1982:3).

"...oral history's main problem: its orality... the revolutionaries who have wanted to use oral 'data' have still treated these data as texts. It is felt necessary to transform the flow of speech into written words... The 'textual' characteristics of what were oral performances mean more that the omission of gestures and intonation (which so often leaves the transliterated text deceptively flat)" (Tonkin 1986:204).

"This perception of oral tellers as 'talking books' is an easy one for literates, especially when the oral accounts themselves appear as literate productions by transposition onto the printed page. Vansina no longer ignores the social realities of performance, but he retains the notion of oral account as document which can be combed for evidence, backed by a fairly resolute empiricism" (Tonkin 1992:90).

"Oral history is not intrinsically more or less likely to be accurate than a written document--though more than one historian has remarked that discovering the illusory truthfulness of a convincing teller makes one realise that conventional literary historians have taken documents over-literally; documents, after all, are often orality recorded" (Tonkin 1992:113-114).

"...selectivity and interpretation weigh more heavily on oral tradition than on written sources. This is because, once a written source exists it becomes permanent, it is subtracted from time. It is no longer affected by selection or interpretation, as long as it survives. When it is copied, the copyist may reintroduce actual writing. Its past is the time it testifies about. It is contemporary when both overlap. For that reason historians appreciate contemporary documents more than any other. With oral traditions the processes of mnemonic and conscious selection and streamlining continue so that they show the impact of x generations of past-presents, which are experienced as a whole and can no longer be unravelled. As a result, the time depth of a tradition matters. If it is short, a tradition still resembles a written document from this point of view. The longer that time interval is, the less it resembles a written document" (Vansina 1985:191).

"Messages are therefore characterized by a double subjectivity, that of the sender(s) of the message and that of the receiver... Oral and written sources differ with regard to the subjectivity of the encoder of the message... Nothing has altered the [written] source since it was made... Here subjectivity is reduced to a minimum: an interpretation encoding the message at the time of the event and an interpretation of the decoder, the historian... [Oral history and oral tradition] accumulate interpretations as they are being transmitted. There is no longer an original encoding interpretation and a decoding one, but there are many encoding and decoding interpretations" (Vansina 1985:194-195).

"...the relationship [between written documents and oral traditions] is not one of the diva and her understudy in the opera: when writing fails, tradition comes on stage. This is wrong. Wherever oral traditions are extant they remain an indispensable

source for reconstruction. They correct other perspectives just as much as other perspectives correct it" (Vansina 1985:199).

6.13 THE FEEDBACK EFFECT

"The potential force of a written and published work...upon the oral expression and early writings...of a newly literate culture has been well noted. [discussion of Henige's "feedback" effect] ...Henige cited numerous examples from around the world which suggested to him, first, the power of the written and published word for people not yet, or just recently, exposed to literacy, and, second, examples of instances where written, and often newly written and sometimes inexpert sources, are cited by and incorporated into oral traditions" (Cohen 1994:230).

"Oral societies with no reading or writing skills will often attempt to use the magic of the written word in ways entirely different from their original intention. In Senegal, nonliterate warriors protected themselves by wearing shirts with sacred Arabic script and amulets on them... In these and many other instances, the intent of the nonliterate society is somehow to pry the word off the page, to co-opt its power and reintegrate it into an oral context" (Guss 1986:423-424).

"The principal mechanism by which the contents of oral traditional accounts were adapted to form new coalesced traditions may be called 'feedback'. Feedback may be defined as the co-opting of extraneous printed or written information into previously oral accounts. This process occurred very widely, if not obviously..." (Henige 1974:96).

[Henige (1974:97-103) discusses "the impact of literacy, and of its concomitant feedback, on the traditional accounts of previously oral societies"]

"Recognition that feedback materials may be co-opted into traditional accounts is essential when working with materials that may claim to be undiluted oral traditions. In turn the investigator must understand the whole range of problems that the process of feedback implies for his assessment of 'oral' data. For instance, it cannot be assumed that accounts are mutually supportive because they are consistent with each other. In his scepticism the investigator must *a priori* assume that any consistency is the result of recourse to printed, written, or para-literate sources or because of deference to 'official' accounts" (Henige 1974:118).

"It is rare to find any really substantial similarity between an oral testimony and a written account since the two sources generally evoke different time-scales and points of view. Should the historian encounter high consistency, he should carefully consider the possibility that one of the sources has directly influenced the other" (Henige 1982:71).

"A great deal of testimony obtained from informants is really feedback; that is, it originated as information that entered the society and was absorbed into traditions because it proved useful or entertaining. In many cases informants themselves fail to realise this because it happened long enough ago and in subtle enough ways that it quickly became indistinguishable from true oral tradition" (Henige 1982:81).

[Henige discusses examples of the "feedback" effect in oral traditions] "The legend of Dekanawidah, the mythical founder of the Iroquois, has numerous parallels with Biblical teachings. Evidence suggests that some of these motifs, though not the character of Dekanawidah himself, sprang from the teaching of French missionaries who worked among the Iroquois in the seventeenth century... In western Canada we find even more explicit motifs in Indian traditions that are based on oral teaching of the early nineteenth century" (Henige 1982:83).

"Contact with a primary oral culture such as the Plains Cree was possible for the early explorers, geographers, traders and missionaries. It is not possible for us, except indirectly, as mediated by those who remember and those who left permanent records. In the 20th century we rely on a secondary oral tradition, that is, on those who cannot read or write but who, nevertheless, have been influenced by the printed word. Even those Plains Cree who do not read or write their language often reach us through many intermediaries: the tape recorder, the interpreter/translator, the literate contact person; they narrate their stories in a literate-technological matrix" (Pomedli 1992:335).

"...it is well to remember that historical traditions may be borrowed and influence one another, so that the oral tradition of a nonliterate group may be affected by the traditions and, directly or indirectly, the written historiography of a literate people with whom they are in contact... With increasing literacy, and increasing publication in ethnohistory, such influences are bound to become more important" (Sturtevant 1966:31-32).

"In their turn written records may serve as a fountainhead for oral tradition...Historians should be aware of this, examine oral traditions for feedback from earlier writings, and trace whether a tradition has been recorded several times, rather than be content with last recording" (Vansina 1985:31).

"When the content of writings come to be known, people who hear them adopt them... When writing came to be practiced in a society, oral traditions did not die out as long as literacy was not general. Rather, people incorporated them into their traditions just as some literate persons incorporated traditions into writings. The transmission became mixed and could remain so for centuries. D. Henige who has most forcefully drawn attention to the input of written material into oral traditions reserves the term 'feedback' for this process. After reviewing evidence from around the world he concluded that 'Uncontaminated oral tradition simply does not exist any

more, except possibly in the most remote areas of Amazonia, the Philippines or New Guinea.' Historians should be aware of possible mixed transmissions and loans from written sources, and it behooves them to carefully examine all the writings that were available to the communities studied and especially those that concerned them" (Vansina 1985:156-157).

[Academic debates] "have a feed-back effect on Iroquoian understandings of their own past" (von Gernet 1995:120). [von Gernet goes on to cite examples of the interplay between academic literature and native traditions].

6.14 THE PRESENT PAST

"...orally communicated information about personalized or localized experiences and events, ...like written historical narratives, are attempts to characterize the past in terms that are meaningful to the present" (Allen 1979:113).

"...orally communicated history is always retrospective: the past is perceived through the screen of the present" (Allen and Montell 1981:100).

"...the past is often reformulated to conform with the present" (Beidelman 1970:96).

"...modern scholarship, drawing upon long-established genealogical traditions, has tended to take the modern condition as the object primarily requiring explanation, and to look to history to provide the explanation... In the world of nations and groups with confident historiographical traditions, well-established histories, and professional historians, the dominant question, therefore, was something like 'How did the past create the present?' Social anthropologists, however, have come to be rather interested in turning this formulation upside down, and asking the previously much less-often asked question, 'How did the present create the past?' In order to account for the present, to justify it, understand it, or criticize it, the past is used, selectively appropriated, remembered, forgotten, or invented..." (Chapman et al., 1989:4-5).

"...researchers who try to winnow 'facts' from oral accounts and relate them to evidence in written documents may mislead themselves. An alternative approach looks at oral tradition not as historical evidence, but as a window on ways the past is culturally constituted and discussed in different settings" (Cruikshank 1988:199).

"Instead of isolating examples of historical evidence from oral testimonies, I have tried to show how individual Athapaskan women *use* culturally specific forms like oral narrative to talk about social transformations in the past and present. Such an approach suggests that oral history has little to contribute to a notion of history as something past or outside oneself" (Cruikshank 1988:209).

"There are two kinds of remembered history from the late nineteenth-century Yukon, one oral and one written. These memories differ because the tellers had different goals and objectives. Consequently, they had different understandings of events... Even though both oral and written accounts refer to the *past*, they are usually told in order to make a statement about the *present*. In other words, their purpose is to provide some background for explaining events that are happening *now*. They do this by emphasizing some events and by leaving out others. Both oral and written accounts about the past are *interpretations* which may change as circumstances change" (Cruikshank 1991:59).

"Oral tradition is more than a body of stories to be recorded and stored away, and it is not always passed on in the form of complete narratives. Anyone who has spent time talking with elders about their understanding of the past knows that oral accounts are discussed and debated in communities, and that oral tradition itself is a lively, continuous, ongoing process, a way of understanding the present as well as the past" (Cruikshank 1991:141).

"As ethnohistorians look more closely at orally transmitted testimonies, they are becoming increasingly attentive to ideological, symbolic, and metaphoric meanings in oral narrative. But at the same time they are becoming sensitive to ethnocentric bias in western writings, more cautious in their handling of *written documentary* sources, aware that written records do not 'speak for themselves' and that, like oral testimonies, they must be understood within the context in which they were and are produced. Both oral traditions and written accounts are deeply embedded in social process... raising questions about the privileged status of documentary evidence as a reference point for establishing 'truth,' 'falsehood,' or 'fact'" (Cruikshank 1992:39).

"Oral traditions...are performances to be seen, heard, and witnessed, not documents to be collected, compared, or stored. They are cultural forms that organize perceptions about the world and are not, in the words of anthropologist Renato Rosaldo, 'containers of brute facts' which can be plundered for veracity, because all 'facts' are culturally mediated in the first place" (Cruikshank 1992:40).

"The theoretical assumption that folklore was limited to a survival and reflection of the past was a crippling one for the study of folklore in context. For if in fact folklore did reflect only the far distant past, then clearly there was no point in bothering to attempt to collect the present context of folklore. A past-oriented folklore collector would tend to regard his informants as relatively unimportant carriers of precious vestigial fragments, fragments which might prove useful in the central task of historically reconstructing the past... In the twentieth century with the increasing amount of ethnographic fieldwork, it became glaringly apparent that folklore reflected the present as well as the past and that there was certainly a context in which folklore was used" (Dundes 1975:50).

"Meanings of oral narratives are not fixed: they have to be understood in terms of how they are used" (Cruikshank 1994:162).

"The appearance of folkloristics as a discipline coincided, not by chance, with the heightening of nationalism in a number of countries, since folklore traditions could help reinforce the sense of national identity, once the intellectuals and policymakers became aware of their existence" (Dorson 1976:67). [Dorson follows with a discussion of how folklore was constructed as a nationalist strategy in Nazi Germany, Finland, Ireland, Greece, Soviet Union, etc.]

"A team of anthropologists publishing in the *Journal of American Folklore* has provided a telling illustration of how Oral Traditional History is molded by its carriers to fit their ethnocentric outlook. One half of the team recorded the oral traditional history of a California Indian tribe, the Nomlaki, and the other obtained comparable data from the Yuki, a warring neighbor tribe across the mountains. The anthropologists compared their findings on a war between the two tribes. They discovered agreement on the central facts of the hostilities--a conflict between the tribes had indeed taken place--but almost a complete mirror reversal on the interpretation of the action. Each tribe considered itself the victor and its foe the deceitful aggressor through ambush and treachery properly punished by the heroic stand of its warriors" (Dorson 1976:143).

"The Burnt Ranch Massacre of 1853, a conflict between Indians and whites... reveals the same process. In the white version, Indians treacherously murdered white prospectors during the early days of white settlement. According to the Tolowa Indian accounts, the whites provoked reprisals by sneaking up on the Indians, and a white officer was alleged to have offered payment for the bodies of Tolowa 'outlaws.' Such is the patterning that shapes historical traditions retained in folk memory" (Dorson 1976:143).

"Oral sources are in many ways even more open to such factors [i.e., the effects of prejudice or propaganda, personal interests or fantasies, etc.] than written ones. A written document is certainly liable to many influences as it is written down, but once written it can be taken as permanent. Oral forms, on the other hand, are open to all these influences, not only on the occasion of the first formulation and delivery, but on every single occasion of delivery afterward. Because they *are* oral, and thus can exist only as and when they are rendered by word of mouth, obviously they are closely affected by a number of additional factors that do not apply to documentary sources" (Finnegan 1970:200).

"Unlike the author of a written document, the author of an oral historical account does not always remain the same; in the case of traditions handed down over long periods he is necessarily different; and different individuals have different ways of presenting the facts, different prejudices, different interpretations. Over any length

of time at all this is likely to lead to many changes and in a very complicated way. Oral forms are, secondly, deeply affected by the kinds of audiences to which they are addressed on any particular occasion... Oral tradition is also more constantly subject to outside influences because of its close connection with the current social situation. Each performance is on a specific occasion, and each occasion is in turn subject to the whole changing social background" (Finnegan 1970:200-201).

"My final type of nonevent involves events that actually occur, and can be documented, but are so traumatic they are denied. In my fieldwork with and ethnohistoric research on the Cherokees, I have found surprisingly few Cherokee accounts of the painful events that accompanied the actual Removal exodus. In contrast there is abundance of documentation from the diaries of white soldiers who supervised the thousand-mile journey, from local white observers whose vivid impressions are preserved in the records of towns through which the emigrants passed, and some coverage even reached the national press. Yet there are practically no contemporaneous Cherokee materials, very few post-Removal memoirs, and only fragmentary oral traditions about this said event. It would seem that the Removal experience was so degrading, so incredible, so brutally real that it became unreal to the Cherokee mind" (Fogelson 1989:143).

[Oral history] ...offers the opportunity of exploring people's ideas and beliefs *about* the past if not *of* the past" (Gittins 1979:96).

[Goldschmidt et al. (1939) discuss the wars between the Yuki and Nomlaki of California; Four Yuki accounts and five Nomlaki accounts of these hostilities are compared.] "Analysis shows that none of the stories can be accepted as accurate accounts of battles... Thus we find that instead of historical verities we have mere folkloristic accounts, stylized and formalized, of what actually did occur. The reason for this is not difficult to find. All peoples love to relate stories of the bravery in war of their ancestors, and it is but natural that the glorifying elements come to take precedence over the less creditable ones. The farther removed the narrator is from first-hand acquaintance with the event, the fewer qualms he has in substituting fiction for fact. In the foregoing stories, war guilt is invariably attributed to the enemy, and justice and righteousness prevail in the form of victory. Size of war parties is fantastically increased, in one instance to 2000 (two dozen would be a closer estimate), and frequently the enemy is destroyed. Further evidence of this tendency to boast is shown by a negative occurrence: no mention is made of the payment of compensation *by the victor* to the loser as a bribe against counter attack, despite the fact that this practice is actually found among these tribes" (Goldschmidt et al. 1939:151-152).

[Gould compares one nineteenth-century white account, one Tolowa Indian account recorded in 1923, and two Tolowa Indian accounts recorded in 1963 of the same event known as the "Burnt Ranch Massacre" which occurred in 1853] "The

disagreement is between the white account and the Tolowa oral accounts, and it should be pointed out that in no case does this disagreement consist of contradictions. Rather, it consists mainly...of differences 'in fullness and emphasis'." (Gould 1966:38). [the white account speaks at length of the Indian provocations and events leading to the massacre, while the Tolowa accounts emphasize the atrocities of the massacre itself]. "...the details of the massacre were entirely forgotten by the whites within thirty years after the event, while the details of the same episode persist until today [1966], 110 years after the event" (Gould 1966:39). [Conversely, the Indian accounts failed to mention any provocations which may have precipitated the event].

"...traditions are primarily seen and used as political symbols, and like the whole array of political symbolism, they serve specific purposes at particular times--primarily purposes of legitimation. In these circumstances the content of oral traditions continually underwent modification as necessity required" (Henige 1974:6).

"The examples discussed in this chapter illustrate that the manipulation of the past, and particularly of the concept of its duration, has not been confined to newly literate societies" (Henige 1974:96).

"...oral materials share with written sources the quality of being prisms on the past rather than windows... truth is subordinated to purpose by reflecting the social, political, and moral order of the day. The difference, of course, is that for written materials it is possible to chart, study, and partly explain the nature of these anomalies. Like fossil remains, previous editions or older textbooks have survived to enable the scholar to understand changes and relate them to each other and to their time, whereas oral tradition destroys at least parts of earlier versions as it replaces them" (Henige 1982:5).

"Armed confrontation on the frontier between different cultures is a natural source for the growth of contradictory accounts..." (Henige 1982:72).

"In many situations informants are also performers, in other instances they will be acting, often unashamedly, as advocates... Social, economic, and political relationships in oral societies are necessarily in flux since there is no opportunity to categorise them by referring to an accessible and fixed body of law. Instead, social equilibrium is pursued by means of constant mediation among interest groups. Sometimes differences cannot be resolved by these means and they break out into open dispute. We do not know how often these have occurred in the past of course, but it does seem to judge from the past 75 years--that much of the historical data in oral societies derives from testimony offered at one kind of dispute or another. These usually concern quarrels over rights to office, differences over grazing or fishing rights, or controversies over matters of supremacy and it does not

seem unfair to speculate that these kinds of conditions also stimulated the production of historical knowledge in earlier times... the chances to abuse historical recollections in the interests of litigation are distressingly frequent." (Henige 1982:78).

"'Traditions' which appear or claim to be old are often quite recent in origin and sometimes invented... The term 'invented tradition' is used in a broad, but not imprecise sense. It includes both 'traditions' actually invented, constructed and formally instituted and those emerging in a less easily traceable manner within a brief and dateable period--a matter of a few years perhaps--and establishing themselves with great rapidity... 'Invented tradition' is taken to mean a set of practices, normally governed by overtly or tacitly accepted rules and of a ritual or symbolic nature, which seek to inculcate certain values and norms of behaviour by repetition, which automatically implies continuity with the past. In fact, where possible, they normally attempt to establish continuity with a suitable historic past... insofar as there is such reference to a historic past, the peculiarity of 'invented' traditions is that the continuity with it is largely factitious. In short, they are responses to novel situations which take the form of reference to old situations, or which establish their own past by quasi-obligatory repetition." (Hobsbawm 1983:1-2).

[Invented traditions] "seem to belong to three overlapping types: a) those establishing or symbolizing social cohesion or the membership of groups, real or artificial communities, b) those establishing or legitimizing institutions, status or relations of authority, and c) those whose main purpose was socialization, the inculcation of beliefs, value systems and conventions of behaviour" (Hobsbawm 1983:9).

[Invented traditions] "are highly relevant to that comparatively recent historical innovation, the 'nation', with its associated phenomena: nationalism, the nation-state, national symbols, histories and the rest... we should not be misled by a curious, but understandable, paradox: modern nations and all their impedimenta generally claim to be the opposite of constructed, namely human communities so 'natural' as to require no definition other than self-assertion... And just because so much of what subjectively makes up the modern 'nation' consists of such constructs and is associated with appropriate and, in general, fairly recent symbols or suitably tailored discourse (such as 'national history'), the national phenomenon cannot be adequately investigated without careful attention to the 'invention of tradition'" (Hobsbawm 1983:13-14).

"The greatest advantage of oral over written documents is that the historian actively participates, as interviewer, in creating the oral document, and therefore he can try to get the information he needs. This active role for the historian can also be a great disadvantage, because if he does not guard against his biases, he may

consciously or unconsciously fabricate the document and make it say what he wants it to say" (Hoopes 1979:12).

"We may expand on Malinowski in saying that history as well as myth can function as a charter for existing customs, rights, and social relationships... The generalization that history is refracted by social structure into different believed-in versions also holds true for more complicated societies, though the lines of cleavage are different. For example, in research I did several years ago on the Catawba Indians of South Carolina, I found that the Catawbas and their White neighbors, who have shared almost three centuries of history, relate opposite versions of this history" (Hudson 1966:59).

"Oral literature is considered by historical-philological folklorists as a cultural artifact which is of the nature of a survival, and by anthropological folklorists as a contemporary reflection of the culture of its bearers, i.e., it is considered as a means to investigate this society" (Jason 1969:420).

"In most of the formerly colonized world... initial colonial penetration occurred so far in the past that oral traditions about this penetration have vanished. Where nationalist, countercolonial interpretations of history have been articulated by indigenous elites, these ideologies serve often to bury beyond reach whatever oral traditions might otherwise have survived" (Keesing 1986:268).

"...two processes [are] at work in oral tradition. In one, past events pass into a stylized genre within which details are preserved because of the nature of the genre and the processes of transmission from the raconteurs of one generation to those of the next. Yet the structures, constraints, and dramatic exigencies of the genre will introduce particular kinds of stylizations and distortions. Such genres may also politicize the material by turning some events to cast rival groups in unfavorable light and bathe the raconteur's own group in glory" (Keesing 1986:290).

"The difficulty lies in the fact that memory does not constitute pure recall; the memory of any particular event is refracted through layer upon layer of subsequent experience and through the influence of the dominant and/or local and specific ideology" (anonymous editorial quoted in Lummis 1981:109).

"Contemporary values clearly shape the informant's interpretation of their own past, and impose the subconscious historical structure of the narrative. Analysing the structure of the interview will be valuable for understanding the *present* values (and therefore the potential distortions) of the informant, but an informant's present values cannot be assumed to illuminate their earlier values or attitudes" (Lummis 1981:113).

"It might be surmised that the more aware of history and politics an informant is, the

more likely is the danger of his rationalising an account of the past to harmonize with a present viewpoint" (Lummis 1981:113).

"Oral evidence is sometimes criticised on grounds that people cannot, or do not, distinguish with sufficient care between their current ideas and those that they held at an earlier period" (Lummis 1981:117).

"At the same time, when history and archaeology are used by dominated groups, they can become tools capable of allowing the groups to free themselves from participation in the dominant ideology. The Northern Cheyenne were quite pleased with the results of the application of archaeological research to one of their concerns. They came to understand that their long-felt mistrust of archaeology might no longer be necessary... If the methods of archaeology are applied directly by Indians, archaeology will become an even more effective tool for resistance, used to bolster oral history" (McDonald 1991:77).

"The term *elite* refers to James Wilkie's distinction between elite and nonelite members of society. The elites, Wilkie says, are those persons who develop a lore that justifies their attempts to control society. The nonelites, on the other hand, are those persons who create lore to explain their lack of control" (McMahan 1989:xiv).

"Much of historians' lack of concern with folklore results from their being prisoners of what they perceive to be their sources; in addition, until recently, their thinking has been dominated by the nineteenth-century school of 'scientific history' whose main gods are the Englishman Edward A. Freeman and the German Leopold von Ranke. The guiding principle of this 'school' is capsulized in Freeman's oft-quoted statement that 'history is past politics, and politics is present history,' meaning, of course, that the only valid historical sources are written political documents" (McNeil 1982:33).

"In the last few decades, there has been an increasing awareness among historians that there is more than one type of historical 'truth' and that what is believed to have happened is often just as important as what actually happened" (McNeil 1982:34).

[re: oral traditions seldom acknowledge battle losses] "Yet, in the Cree case, we have accounts of both winning and losing" (Morantz 1984:178).

"Documents may decay with time, but they do not very often change before your very eyes. Interviewees, on the other hand, are capable of rapid and startling changes. Memory is not merely a passive reservoir of data, the contents of which can be pored over and scrutinized at leisure. It is engaged and integrated with the present--with continuously changing attitudes, perspectives and understandings--working and reworking the data of experience into new formulations, opinions and perhaps even new creations" (Moss 1974:9).

"An archeological site does not wilfully withhold or distort evidence, but an interviewee can" (Moss 1974:20).

"Biased memoria certainly have their place in the historical context, but it should be the responsibility of a professional oral historian to balance them with more detached views and opposing testimony. The moral obligation to the future requires that the interviewer be a detached observer and reporter, a critical analyst of his subject, and not an apologist for a person or an ideology. Those who engage in oral history should insist that their programs are insulated from such compelling influences as mentioned above" (Moss 1974:12-13).

[Oral traditions] "contribute to the social cohesion, dynamic evolution, and durability of the culture they represent. They are changed by the changes in the culture around them, and in turn they serve to shape and mold the evolving culture... Oral traditions...are a continuing and less specific dialectic between a whole culture and its past, or between an individual tradition-bearer and the past" (Moss 1988a:9).

[re: review of Tonkin's *Narrating Our Pasts*] "The form of historical retrospect is central because 'accounts of pastness are socially constructed though the intervening power of genre' (p. 5). This perspective challenges any remaining orthodoxy that treats oral history as a transparent transmission of facts about the past for which the historian's main task is to sift error from truth. If errors themselves are not lapses of memory but socially constructed, the theoretical task is to understand the culture, logic, and politics of these constructions" (Murphy 1994:925).

"Myths change in spite of the fact that their keepers may perceive them as changeless, precisely because their task is to show that it is possible to resist time. Life histories, personal tales, depend upon time, if for nothing else, than because there are additions and subtractions made to them with each day of the narrator's life...Therefore, a life history is a living thing. It is always a work in progress, in which the narrator revises the image of his own past as he goes along. The difficulty which the collector (and the source) often experience in ending an interview is a sign of how both feel that the story they have been telling is always open-ended, provisional, and partial. It isn't only a matter of not having reached an end. Myths are about the past, yet they change too--when the group changes. So do people's versions of their own past change--when the individual changes" (Portelli 1981:163).

"No story will be repeated twice in the identical manner. Each story we hear is unique. The researcher's path crosses the informant's at erratic times; the collected life history is the result of this chance occurrence (of course, the researcher may have planned the interview; but the informant hasn't. There is, normally, no reason inherent in the narrator's life why the researcher ought to knock on his door at that

particular time and not at another)" (Portelli 1981:164).

[The storyteller may] "organize it into a coherent whole for communication to the outside world, to bring it into a fuller perspective, to search for the best way to express it in a language that people outside his immediate circle can easily understand. This is one way in which the oral historian may be said to have *produced* the document, to have influenced the social reality in which he operates" (Portelli 1981:165).

"The historian is mainly interested in reconstructing the past; the speaker seeks to project an image. Thus, the historian tends to try for a linear chronological sequence; the speaker may be more interested in pursuing and gathering together bundles of relationships and themes across the linear span of his life" (Portelli 1981:165-166).

"While most of us would quickly dismiss the notion of the possibility of objective and value free *history*, saying that all history reflects the point of view of its writer, many of us still feel that the *record* which we so carefully preserve and make available is neutral stuff without its own animus. ...[However,] the record, no matter how complete, is not a replica of the event or events described. The record is not the event. Second, even of this imperfect record, there is incomplete preservation. Third, there is the matter of selection and retention. The vast majority of records selected and retained in Canadian archives reflect executive decision-making and executive action by elites... These are precisely the sorts of questions and criticisms that have been made about oral history. They are legitimate questions which deserve answers. My objection is that archivists and historians have been applying a double standard to oral history. The questions and criticisms are directed against oral sources but are rarely if ever applied to other sorts of documentary evidence" (Reimer 1981:31).

"To single out oral history as suspect suggests that written records are free of bias and human motivations. However, all records, whether created by an individual or an institution, serve a certain purpose" (Reimer 1984:2).

"Michael Frisch has explained the process in his book *A Shared Authority* (1990), whose clever title promotes the notion that both participants in an interview are responsible for its creation and share its authorship" (Ritchie 1995:9).

"People regularly reevaluate and reexplain their past decisions and actions. Just as historians rewrite history to incorporate new evidence and fit different theories, individuals use the insights gained from current events to help them make new sense out of past experiences. There is nothing invalidating about this reflectivity, so long as interviewers and researchers understand what is occurring and take it into account" (Ritchie 1995:12-13).

"Although no historical records were found to show that the Mohawks were a threat to the Penobscot, Passamaquoddy, or Malecite in historical times, folk tradition has created a tremendous fear of the Mohawks that still exists. The placing of popular historical figures and connecting familiar places with incidents has perpetuated the traditions. The lack of historical evidence leads this author to believe that some researchers are influenced by the strong folk traditions rather than by the fact. The traditions have considerable appeal because Wabanaki captives are able to overpower stronger forces through superior trickery and magical powers. The traditions give the Wabanaki a patriotic spirit, a feeling of accomplishment, and a historical heritage. As many of the traditions are similar, it is possible that they are centered around incidents that actually occurred before 1600 or that occurred among neighbouring tribes" (Smith 1983:55).

"One of the principal ways in which the past influences the present is that ideas about the past--whether they are true or false is irrelevant in this context--are part of the present ideational system affecting present behavior" (Sturtevant 1966:22).

"The Lumbee Indians of North Carolina maintain their social isolation from the neighboring Whites and Negroes (especially the latter) largely by insisting on a historical myth (invented in the 1880s) which derives them from the supposed intermarriage with Indians of Raleigh's 'Lost Colony' of Roanoke; but the lack of any firm historical evidence for this tale, coupled with the lack of any other known historical Indian ancestry, is used by their neighbors as a weapon against the Lumbee claim to Indian status. Many Lumbee are obviously Indian in physical appearance, but their lack of an acceptable history is crucial: many other Indian communities are fully as assimilated, culturally and physically, but easily maintain social status as Indians because of their accepted historical derivation" (Sturtevant 1966:23).

"The recitation of ancient wrongs is an effective Indian political technique for gaining present concessions from the larger society... Thus, folk history...very frequently serves as a charter and justification for aspects of present culture" (Sturtevant 1966:24).

"The fresh possibilities in the historical study of memory begin with two starting points, deeply embedded in historians' narrative traditions, that are now being hailed as major discoveries in other disciplines. The first is that memory, private and individual as much as collective and cultural, is constructed, not reproduced. The second is that this construction is not made in isolation but in conversations with others that occur in the contexts of community, broader politics, and social dynamics" (Thelen 1989:1119).

"The starting place for the construction of an individual recollection is a present need or circumstance. When historians begin an evaluation of a narrative by

wondering about a person's motives or biases or mood or audience at the particular time and place when the person constructed the memory--rather than, say, proximity to the event being recalled--we focus on what psychologists now consider the crucial point" (Thelen 1989:1121).

"Since people seem to use common patterns in constructing memories in response to change, social history opens promising fields for the study of memory. Perhaps the most familiar theme of social history is that people have resisted rapid, alien, and imposed change by creating memories of a past that was unchanging, incorruptible, and harmonious. They mobilize those memories to resist change... When the central issue about these recollections becomes their construction, not their accuracy, old issues become moot and new ones become urgent... In a study of memory the important question is not how accurately a recollection fitted some piece of a past reality, but why historical actors constructed their memories in a particular way at a particular time. To hunt for the moment when life (or work) was 'traditional' is pointless, as folklorist Dell Hymes has observed, because all peoples 'traditionalize' some aspects of their experience to meet social needs in the present" (Thelen 1989:1125).

"Where no history is readily at hand, it will be created" (Thompson 1988:1).

"This telescoping of two separate events into one in the memory is a very common phenomenon. For some purposes, the historian's task will be to try to separate them, delicately probing deeper; but for others, this very reorganization of the memory will be a precious indication of how a people's consciousness is constructed... [as Portelli argues] 'The facts that people remember (and forget) are themselves the stuff of which history is made.' The very subjectivity which some see as a weakness of oral sources can also make them uniquely valuable. For 'subjectivity is as much the business of history as the more visible 'facts'. What the informant believes is indeed *fact* (that is, the *fact* that he or she believes it) just as much as what 'really happened'" (Thompson 1988:137-138).

"Rumours do not survive unless they make sense to people. Seen in such light, as Portelli puts it, 'there are no 'false' oral sources. Once we have checked their factual credibility with all the established criteria of historical philological criticism that apply to every document, the diversity of oral history lies in the fact that 'untrue' statements are still psychologically 'true', and that these previous 'errors' sometimes reveal more than factually accurate accounts... The credibility of oral sources is a *different* credibility... The importance of oral testimony may often lie not in its adherence to facts but rather in its divergence from them, where imagination, symbolism, desire break in.' History, in short, is not just about events, or structures, or patterns of behaviour, but also about how these are experienced and remembered in the imagination. And one part of history, what people imagined happened, and also what they believe *might* have happened--their imagination of

an alternative past, and so an alternative present--may be as crucial as what did happen" (Thompson 1988:139).

"...much oral tradition cannot be history of the kind that is elsewhere revealed from a study of contemporary documents. Oral tradition is often in reality an explanation, in quasi-historical terms, of existing or of currently relevant past social or socio-political relationships" (Fage quoted in Tonkin 1986:203).

"Whatever one's theoretical stance, the fundamental difficulty of doing oral history must, I think, remain, that the tellers are talking 'now' as particular social persons (and to particular audiences) and they are accumulations and modifications of their earlier selves. Their histories are likewise formulated for *now*" (Tonkin 1986:208-209).

"Oral history is utterly dependent on social understanding. What are the key concerns for a community, its ideological as well as its political and economic dispositions, and how are they encoded?" (Tonkin 1986:210).

"Briefly, the expectation that recall is shaped and directed by social ends is not just pragmatically useful to the hunter of oral sources. It also suggests that social relations are partly reproduced through members' representations of them" (Tonkin 1986:211).

"...what humans recall is strongly connected to their identities, which include their social roles. It is therefore appropriate and enlightening to start from the position that oral accounts are part of social action--which may itself be patterned, just as it uses genres that are recognised, repeated and modified. Theoretically and practically, it is less appropriate and enlightening to detach accounts from tellers as material objects and evidences in themselves... I have urged that oral narratives be seen as social actions, situated in particular times and places and directed by individual tellers to specific audiences" (Tonkin 1992:96).

"Propaganda, that which must be propagated...has come through poignant events in European history to mean (dis)information propagated for one's own ends. What are we to make of histories that apparently mis-recall to the tellers' *disadvantage*?" (Tonkin 1992:115).

"As reminiscences or news become institutionalized traditions their content has to be adapted" (Vansina 1985:19). [Vansina gives an illustration of what happens during the transition from personal narrative to collective narrative. The case involves a Navaho attack on the Hopi in the 1850s. Two versions of the event were given by Hopi eyewitnesses in 1892 and a third Hopi version (by then oral tradition) was published in 1936] "The differences with the previous versions consisted mainly in the addition of elements that altered the whole character of the story...

Thus group traditions can be created quite rapidly after the events and acquire a form which strikingly makes such a tradition part of a complex of traditions. After this, and in due course of time, such accounts undergo further change" (Vansina 1985:20).

"Every traditional message has a particular purpose and fulfils a particular function, otherwise it would not survive. The significance of its content in relation to community or society at large is what I call a function. But we cannot observe functions. They are elements of social analysis, interpretations of social situations produced by the mind of the analyst. We can deduce these only by seeing how messages are or were in fact used or whom the message benefited... Functions become compellingly real only when use of the message shows them to be of benefit to X or Y" (Vansina 1985:100-101).

"The use of messages as tools is perhaps most dramatic in conflict situations. One fights with tradition" (Vansina 1985:102).

"Less specific but no less important is the general use of traditions as a justification of existing conditions" (Vansina 1985:103).

[re: Lumbee of North Carolina] "They claim to be Indians who intermarried with the earliest white settlers of a colony that separated from the Roanoke and was later lost. They used this story first, to identify themselves and, then, to claim a separate status--neither white nor black--and that from at least the 1880s. By their claim they were the first in the land and indeed the first settlers as well. Lumbee do not, however, differ in any way at all from other 'white' people in the area. They have no visible Indian heritage whatsoever. Only their claim of origin distinguished them from others and established them as a group, yet they managed to be recognized as Indians in a state where otherwise only black and white races were recognized and separated. There were Indians merely because they believed themselves to be, and their account of origin convinced the ruling whites as well. Historical consciousness of this sort is served in all societies by traditions of origin" (Vansina 1985:105).

"Selectivity...occurs mainly for social reasons... The effects are loss of information and the creation of a profile of past history which is the historical consciousness of the *present*... This has led some anthropologists, like T.O. Beidelman, to deny all evidential value to traditions. One cannot show that events recorded in traditions 'actually occurred as recorded or whether these simply should have occurred in order for the past to conform with society as it exists today--or, at least, how it is thought to exist by those within it.' Beidelman cannot realistically claim that in every generation people invent a brand new past for themselves and believe it to be the past. His position goes against the dynamics of oral tradition and against the principle of selectivity in interpretation. Selectivity implies discarding certain

information one has about the past and from that pool of information keeping only what is still significant in the present. However, the information that is retained, still comes from the past. Interpretation means to alter information from the past to give it new meaning and as interpretation is more creative than selection it is also more dangerous, but not to the point that all is to be rejected" (Vansina 1985:190-191).

"...however much various successive encoders have altered original messages through selection or interpretation, they were also restrained by the previous interpretations. Such interpretations are therefore cumulative. The one a researcher is confronted with is to a degree a collective interpretation. It is the product of a continuing reflection about the past, the goal of which was not to find out 'what really happened,' but to establish what in the past, believed to be real, was relevant to the present" (Vansina 1985:196).

"The manner in which Mohawks have employed historical events as symbols in contemporary political rhetoric has, itself, been a subject of anthropological interest" (von Gernet 1995:123).

"Richard Gould's 'Indian and White versions of the Burnt Ranch Massacre,' is a classic case of the two-pronged approach using traditional written sources and carefully collected oral traditions. He notes in his analysis of the white narrative, that Bledsoe, a California businessman who wrote an account of the massacre, considered Indians an obstacle to the expansion of white civilization. The Indian narrative gives a detailed and gory account of the white slaughter of nearly an entire village... Dupree's conclusions are similar to those of Gould. He says that each culture emphasizes (as one would expect) the virtues of its heroes, its reasons for fighting, and its bravery, and leaves out unpleasant facts. All of this would be commonplace of course, were it not for the simple fact that modern historians researching the same events have not bothered to examine the local tales in order to correct the biases of the dominant sources..." (Wylie 1973:717).

6.15 MEMORY

"...oral history is usually regarded as limited to the scope of the narrators' personal memories and therefore as more appropriately applied to the recent rather than the distant past. But if we consider memories to be built from transmitted knowledge as well as personal experience, then information about various aspects of American life in the past century as well as this one can also emerge from oral history." (Allen 1988:94). [Allen goes on to give examples of generational memory spanning nearly two full centuries]

"The argument that the human memory cannot be trusted has been disproved by research among groups of people around the world who have a marked propensity

for retaining historical truths over long periods of time" (Allen and Montell 1981:69).

"...it would seem that Inuit recall is highly reliable (with due allowance made for cultural selectivity in what is recollected) within living memory from young adulthood at least, i.e., for about half a century. Recall is still reliable at a generation's remove or about a century after the event, but with some loss of original content to be expected and the beginnings of formalization into legendary narrative becoming apparent. After about two or three centuries content has become quite fragmentary. Insofar as the surviving main points are now preserved in tradition, continued reliability exists" (Arima 1976:35).

The psychologist F.C. Bartlett conducted a series of famous experiments designed to discover what changes took place from the time a folktale was originally learned to when it was later reiterated. Two testing techniques were used: the method of repeated reproduction (a subject was asked to reproduce the same tale after a period of weeks, months and years), and the method of serial reproduction (a subject was given a tale and asked to repeat it. The reproduction was then given to a second subject who likewise repeated it. The process continued until the increasingly modified tale had been repeated by 20 different subjects). Although the experiments have been criticised for a number of theoretical inadequacies and methodological flaws, they successfully demonstrated that important changes do occur in oral transmission (Bartlett 1965).

"Oral narratives include historical events. Because oral traditions are never fixed or static, historical events are often woven into existing stories. Narratives deal with ancient themes, like creation, but they include references to changes in animal populations, to the coming of the first whites, and to the gold rush. They also incorporate observations about weather and about cataclysmic events like glacial surges and volcanic eruptions" (Cruikshank 1991:18).

Studies on human memory suggest that this poses a problem for "accuracy" in oral history (Cutler 1970).

"The analogy with individual memory is again useful. It, too, normally stops at the third generation, with things told by grandparents, by parents about their parents, by elderly nurses. It, too, is controlled by relevance. All memory is selective, and though the reason why something remains (apart from something actively and deliberately learned, like a school lesson), more often than not escapes us, that is a defect in our knowledge, not a manifestation of random, purposeless behavior. But then the analogy breaks down, for "group memory" is never subconsciously motivated in the sense of being, or seeming to be, automatic and uncontrolled, unsought for as personal memory so often appears. Group memory, after all, is no more than the transmittal to many people of the memory of one man or a few men, repeated many times over; and the act of transmittal, of communication and

therefore of preservation of the memory, is not spontaneous and unconscious but deliberate, intended to serve a purpose known to the man who performs it" (Finley 1965:296).

"But while the structure of memory is related to the structure of perception and the latter is itself rooted in culture, education, and experience (native American informants, for example, are extraordinary unperceptive about Slavs), memory itself is a vast welter of impressions and feelings, as well as a more structured, rational schemata" (Friedlander 1984:136).

"Memory decay poses a further problem that is common to all investigations based on questionnaire techniques... Social psychologists, however, have found that the process of forgetting is neither uniform nor orderly in time and that accurate recall depends on the initial perception of an event, and its depth of processing for retention in the longer-term memory... Thus, in practice, it is normally less difficult to retrieve acceptable information from a respondent who fully understands the topic of enquiry, finds the interview stimulating and related to personal experience, and is sufficiently motivated and challenged to want to remember" (Gant 1987:28).

"It is generally agreed that what people remember is initially dependent on their perception and comprehension of an event or emotion. Such comprehension tends, in turn, to depend on the individual's degree of interest, that is, people will tend to remember those events, feelings or perceptions which have been most *important*--most *interesting*--to them... Memory is thus a highly selective process but the very process of selection in recollection provides *in itself* important historical data. In other words, *what* someone remembers can be a good indicator of what has been most important to that person over time. The most serious problem for oral history, however, is the extent to which recollection may vary and change over time. It has been shown that recent memories are more apt to be lost than those of long ago. This is important as far as recollection of facts and events is concerned; unfortunately, studies have also shown that memory tends to be less reliable about beliefs and attitudes in the past. It cannot be assumed that the reasons given by respondents *now* for behaviour fifty years ago would concur either with their reasons prior to their actions or those immediately afterwards" (Gittins 1979:92).

[re: Saulteaux] "On the whole, then, events that are believed to have taken place 'long ago' are not systematically correlated with each other in any well-defined temporal schema. They are discrete happenings, often unconnected and sometimes contradictory. Yet the past and the present are part of a whole because they are bound together by the persistence and contemporary reality of mythological characters not even now grown old" (Hallowell 1937:668).

[Harwood discusses spatial location as a mnemonic device or *aide mémoire* which helps in the recollection of a corpus of myths] "An attempt has been made to

describe and substantiate a number of techniques used by a variety of oral traditions to locate mythical events and to give them meaning. Two axes for the organization of cultural materials have been mentioned--the spatial and the temporal. It would appear that a spatial axis predominates in nonliterate cultures whereas a temporal, that is to say historical, axis takes precedence in literate cultures. It is argued that the precise geographical locations given with such frequency in the myths of nonliterate societies are not mere embellishments, but play a significant role as mnemonic devices for the recall of the mythical corpus" (Harwood 1976:795).

"Dogribs recognize that some of the happenings recounted in their oral tradition occurred 'thousands of years ago' or at least long before the advent of the Europeans. Some may truly be classed as 'myths'... others although remote beyond temporal reckoning, treat of a world much as it is today. But neither sort seems to be consciously conceived as falling into a temporal succession; we therefore refer to that 'era' as Floating Time;. After the era of Floating Time, however, Dogrib oral tradition enters Linear Time" (Helm and Gillespie 1981:9).

"Telescoping may occur in a tradition for many reasons. In most cases it will occur when the duration of the past loses its relevance for the present. Only those past events which influence the present will be remembered. Generally these relate to the 'migration' to and settlement of the area, which encompasses land rights, and the legitimation of the ruling dynasty or social order... In telescoping, whole epochs, such as the creation and development of the polity, may be remembered by a single archetypal figure" (Henige 1974:5).

"As a distorting process, lengthening is much more widespread than telescoping.." (Henige 1974:6).

"...we transfer our own calendrical biases to societies in which the past is neither lineally conceived nor even approximately measurable. In doing so we often assume that these societies have remembered their past 'calendrically', that is, lineally, sequentially, and even chronometrically. In fact, achronicity is one of the concomitants of an oral non-calendrical society" (Henige 1974:14).

"The most retentive memory is weaker than the palest ink" [Chinese proverb quoted in Henige 1974:95].

"Few Americans can recite the names of the U.S. Presidents, few Britons can remember the names of all the children of Queen Victoria, and few Frenchmen can provide the names of the months of the revolutionary calendar. But any American, any Briton, or any Frenchman can find this information whenever they need to. In short, members of literate societies can be selective or careless in retaining memories, yet still be able indefinitely to retrieve some of what they have forgotten.

Because members of oral societies do not have this opportunity, the past necessarily assumes a very different role for them... [Oral historians] sometimes profess to believe that members of oral cultures can and do remember more than literate people, if only because they need to if oral historians are to be successful in their work. Of course this is not often demonstrably true--with members of oral societies facts also fade into fancies. They generally forget about as much as other people and in doing so lose it forever, for without effective mnemonic devices forgetting is a disease without a cure" (Henige 1982:5).

"Among other things, studies on memory have thrown doubt on the possibility that so-called fixed texts can be transmitted over several generations" (Henige 1982:22).

"...recent studies on memory, although largely confined to literate societies, suggest how difficult it is to recall the past with detachment and accuracy... There is sometimes talk of 'prodigious' or 'phenomenal' memory among some members of oral societies but before accepting this argument it must be understood that, however attractive it may be, it is largely untested and untestable" (Henige 1982:67).

[re: Delaware Indians *Walam Olum*] "...claimed to trace a migration reaching all the way from Siberia to the eastern coast of the United States. According to this record, the trek lasted for over 90 reigns, yet the migrants arrived virtually intact and retained their collective memory until the very end" (Henige 1982:93). "...the *Walam Olum* was a by-product of a revival movement among the Delawares, who were trying to retain their self-identity in nearly impossible circumstances... Years of missionary activity are not only likely to have acquainted the Delawares with the prevailing view that the Indians had reached the New World via the Bering Strait, but certainly must also have impressed on them the heroic dimensions of migration, especially one across a body of water as shown by the Israelites' flight from Egypt" (Henige 1982:95).

"In a sense the repeated recalling of individual experiences can be compared to the chain of transmission. That is, the most recent time we recall an experience will be different--who knows how much?--from the first time. No matter how careful we may be, remembering is just too casual and too unconscious to be adequately controlled. Each time we recall something to mind... modifications occur... These may result from omitting or suppressing unpleasant aspects of an experience, blaming them on others, or minimising their role and effects" (Henige 1982:110-111).

"It is often taken for granted that eyewitness testimony is by nature reliable, or at least more reliable than other forms of recollection because seeing something happen impresses a kind of indelible image on the memory. This is far from true, however, even during the immediate aftermath of an event and before any of the

modifications we have mentioned occur... Since no two people have the same blend of training and experience, no two people will ever see a complex event--and all events are ultimately complex--in quite the same way" (Henige 1982:111).

"For what it may be worth, the empirical record of psychology suggests that most people's ability to remember declines as they grow older... The ways in which this happens vary from one person to another but it is fair to say that the long-term memories (that is, from a few days to infinity) of the elderly are likely to be less retentive, less accurate, and less able to be mobilised quickly than those of their juniors" (Henige 1982:112).

[Hildyard and Olson designed an experiment to determine whether written as opposed to orally presented text dispose comprehenders to treat that text differently] "...it appears that readers and listeners do adopt somewhat different strategies in comprehending narrative discourse. The listeners pay primary attention to the theme of the story, building a coherent representation of what was meant. The readers, on the other hand, are able to pay closer attention to the meaning of the sentences per se, recalling more incidental but mentioned details and being more accurate in their judgements of what was in fact stated in the text. Furthermore, the acquisition of literate skills appears to involve a greater awareness of the sentence meaning, an awareness that shows up not only in comprehending written texts but those presented orally as well. It is, we may say, a reflection of the bias of written language towards literal meaning to the meaning preserved in the text" (Hildyard and Olson 1982:31-32).

"...oral historians must also deal with the problem that memory, on which they so heavily depend, is human and fallible. All historical documents, including both oral and written, reflect the particular subjective minds of their creators. Yet written records that date from the time of an event, though not less subjective, are at least less distorted by memory and therefore, some historians have argued, a better source of 'facts' than oral documents" (Hoopes 1979:15).

"Today's folklorists...tend to be skeptical about 'historical' memories reaching back more than a century. There are a few recorded examples of longer persistence of folk memory, so this is not a doctrinaire stance. Nonetheless, folklorists incline toward the view that historical reliability is an interpretation to be reached only after other interpretations have been tried" (Lankford 1980:297).

"The Nez Percé account of how this people first secured horses...contains nothing irrational, yet, as Dr. Spinden has pointed out, it grossly misrepresents events barely more than a hundred years old. We can hardly do better in testing the historical sense of natives than to select some recent historical event, such as the acquisition of the horse, and note how native memory has preserved or failed to preserve knowledge of it" (Lowie 1915:598).

"There are few events that can be regarded as equalling in importance the introduction of the horse into America; moreover, this took place within so recent a period, that trustworthy accounts of what happened might reasonably be expected. Nevertheless we find that the Nez Percé give a perfectly matter-of-fact but wholly erroneous account of the case, while the Assiniboine connect the creation of the horse with a cosmogonic hero-myth" (Lowie 1917:164).

"In a masterly paper Mr. F.W. Hodge has torn into shreds the arguments advanced on behalf of the aboriginal view. He establishes the fact that... 'Zuni traditional accounts of events which occurred over three centuries ago are not worthy of consideration as historical or scientific evidence'" (Lowie 1917:165).

"Now, we know that very few of our Indians could have descended from the skies or climbed from an underground world within the period of tribal differentiation of the American race..." (Lowie 1917:166).

"It has been recognized for some time that individual storytellers within a tribe vary appreciably in their rendering of a tale; and this fact evidently affects intertribal comparison. But it seems equally important to ascertain how far the same individual departs from the norm as received by him. This would affect not only the evaluation of folk-tales, but of 'historical' traditions as well." [Lowie then compares a Crow tale told to him c. 1912 with one obtained from the same informant in 1931] "Both times the narrator doubtless tried to picture the same occurrence... Yet the enemy in the fuller report is the Cheyenne, not the Dakota tribe; the entire context differs; and along with amazing identities there are notable discrepancies..." (Lowie 1965:262-263).

"It is known that when memory fails it is the most recent memories which go first, while early memories remain clear or are even enhanced" (Lummis 1981:109).

"...I distinguish between memory and recall on pragmatic grounds. By memory I mean the fund of information about the past that an informant will readily relate, often as polished stories or anecdotes, which suggests that they have been frequently retold or thought about; as such, they are liable to be integrated with subsequent experience and values. By recall I mean responses to detailed interviewing which prompts dormant "memories" that are less likely to be integrated into the individual's present value structure. This latter category includes a great deal of circumstantial evidence" (Lummis 1981:110).

"In the Gitksan view, an individual's subconscious contains the memories of past lives, ultimately reaching back to the time of the origin myths which situate the ancestors on the land. To the Gitksan, reincarnation means the ancestors are themselves. In childhood the ancient memories are re-awakened by the stimulus of returning to the same places and seeing the same people" (Mills 1995:161).

[re: Frederick Bartlett's experiment on remembering] "In his famous experiment, he read a North American folk tale to a group and then studied the changes in structure and content in successive recall attempts. He found that while facts were dropped, added, and invented with each successive recall, the end product was not so much distortion of the original as a simpler, more functional rendition. This led him to advance a schematic theory of long-term memory. According to this theory people remember by organizing things within the framework of their experiences. Thus for Bartlett the process of recalling an event or episode from the past is essentially one of reconstruction. Instead of drawing forth a holistic memory unit when the need arises, people energize the relevant schemata and recreate anew the event or incident they are attempting to revive... Today, most psychiatrists no longer adhere to [Freud's] rather simplistic theory of forgetting. In some respects they have moved into Bartlett's corner. For many have come to view long-term memory as an emotionally adaptive mechanism in which 'recollection changes with the change in one's view of oneself and the world'" (Neuenschwander 1984:326-327).

"A legitimate question is: *Did* any of the New World aborigines possess enough of a genuine historical consciousness to maintain records with sufficient accuracy and time depth for them to be of use to the archeologist?" (Nicholson 1955:595).

"The study of memory by psychologists has concentrated largely on short-term memory rather than on the long-term recall of a life span" (Ritchie 1995:11).

"The unreliability of the interviewee's memory for hard fact and chronological sequence is undoubtedly the major criticism of oral evidence... The near-unanimity among professional authors and historians as to the unreliability of memory to produce information on sequence and hard facts (dates, names, places, etc.) would indeed suggest that oral evidence should not be relied upon at all... As Lord Blake has judiciously written: 'People's memories about facts (as opposed to personal impressions) can be fallible. One is probably ill advised to rest any episode of importance upon the unsubstantiated testimony of a single individual unless he took a written note at the time.' Work by psychologists further does not provide the collector of oral history with any reason for being complacent about the worth of his testimony. Recent memory research... suggests that the evidence of eye-witnesses is even more unreliable than hitherto regarded: in particular, a suggestion carefully inserted in questioning a witness can later be reported by the witness as an observed fact. However, memory research has not as yet come up with any hypotheses which can be utilised by collectors of oral history as generally-applicable guides in assessing their evidence" (Seldon and Pappworth 1983:17).

"Other knowledge of the past is more subject to random errors and to disappearance through the vagaries of memory and unsystematic oral transmission. But in the ordinary situation one should be able to recover relatively reliable information going back at least two long lifetimes: aged informants with good

memories and an interest in the past may well remember in considerable detail reminiscences they heard in their youth from other elderly people with similar talents" (Sturtevant 1966:30).

"Since the memory of past experiences is so profoundly intertwined with the basic identities of individuals, groups, and cultures, the study of memory exists in different forms along a spectrum of experience, from the personal, individual, and private to the collective, cultural, and public. At one end of the spectrum are psychological issues of individual motivation and perception in the creation of memories. At the other end are linguistic or anthropological issues of how cultures establish traditions and myths from the past to guide the conduct of their members in the present... The same questions about the construction of memory can illuminate how individuals, ethnic groups, political parties, and cultures shape and reshape their identities--as known to themselves and to others. Those questions can explore how they establish their core identities, how much and what kind of variation they permit around that core, and what they rule out as unacceptable. The similarities and differences in the ways individuals and groups construct memories open new possibilities for exploring how individuals connect with larger-scale historical processes" (Thelen 1989:1117-1118).

"Historians have traditionally been concerned above all with the accuracy of a memory, with how correctly it describes what actually occurred at some point in time in the past. We compare different accounts of the same event and evaluate which is most accurate. Remembering, we tend to think, is a process by which people search some kind of storage system in their minds... We expect the accuracy of a memory to be shaped by the observer's physical proximity in time and space to the event... During the 1980s a dramatic reconception of memory seems to be arising from the confluence of two different lines of inquiry... [Frederick Bartlett] concluded that 'remembering appears to be far more decisively an affair of construction rather than one of mere reproduction.' In each construction of a memory, people reshape, omit, distort, combine, and reorganize details from the past in an active and subjective way. They mix pieces from the present with elements from different periods in the past.' If we change the way we think about the world, explained Jean Piaget and B. Inhelder in 1973, 'we automatically update memories to reflect our new understanding.' While psychologists concluded that memory was a process of creative construction, biologists discovered that the brain had no central storage facility to hold bits of information... biologists now support the recent subjectivist thrust in psychology that envisions each memory as an active and new construction made from many tiny associations, not a passive process of storing and retrieving full-blown objective representations of past experiences" (Thelen 1989:1119-1121).

"Unfortunately the biochemical knowledge of the brain, despite its recent rapid advances, is not yet able to answer the particular questions which a social scientist would wish to ask about the memory process" (Thompson 1988:111).

"The memory process thus depends, not only upon individual comprehension, but also upon interest. Accurate memory is thus much more likely when it meets a social interest and need. It has been shown that illiterate Swazis, who might be thought to have particularly good memories because they can write nothing down, are no more capable of remembering messages for Europeans than Europeans are, but when they are asked about the exact descriptions and prices fetched by cattle sold a year previously, they can recite this, while the European who bought the cattle and noted their prices in his accounts cannot" (Thompson 1988:113).

"...I examined contentions that oral narrations encapsulate pieces of verbal repetition that can be treated as if they are objects... I argued that this perception derives from assumptions about text-as-product and a congruent social theory which are opposed by the approaches that I am supporting here... I extend my theoretical perspective to cognition and memory. I argue that memory and cognition are partly constituted by social relations and thus are also constitutive of society. We are all simultaneously bearers and makers of history, with discursive representations of pastness as one element in this generation and reproduction of social life" (Tonkin 1992:97).

"Memory typically selects certain features from the successive perceptions and interprets them according to expectation, previous knowledge, or the logic of 'what must have happened,' and fills the gaps in perception" (Vansina 1985:5).

"As opposed to all other sources, oral tradition consists of information existing in memory. It is in memory most of the time, and only now and then are those parts recalled which the needs of the moment require... Furthermore, memory is not an inert storage system like a tape recorded or a computer. Remembering is an activity, a re-creation of what once was" (Vansina 1985:147).

"Traditions are memories of memories... To a point all memory is collective, but memories of traditions are especially so since different people hear a single rendering and may or may not render it later themselves... Memory changes over time, even when dormant, because of the constant input of new items in memory which must coexist with older material and force its reappraisal, its reorganization, and, in the case of repetitive events, its disappearance. Such inputs are greater in collective memory than in individual memory, at least with regard to tradition. The memory of oral tradition is more dynamic at all times than individual memory" (Vansina 1985:160-161).

"Messages are ephemeral and traditions inchoate. Each culture has its own notions of time, and calendars do not exist in oral society. We cannot date the depth of a tradition in any direct way, we can only date the recording of a performance or of testimony by an informant" (Vansina 1985:173).

"Often the epochs are in a correct order but accounts have been transposed from one to the other, as when the Assiniboine ascribe the introduction of the horse to the era of creation and not to the eighteenth century" (Vansina 1985:177).

"Raglan was certain that nonliterate cultures could not keep the oral record of any event more than a century and a half, which is, though not a surprising conclusion, wrong" (Wylie 1973:709-710).

6.16 RELIABILITY AND VALIDITY

[On one side: those who deny the historical validity of any oral tradition (e.g., Lowie who only admitted that Indian traditional narratives had psychological and social meaning). On the other side: those who accept the historical accuracy of oral tradition; such tradition has its origin in some definite historical fact, even though it may be aggrandized by legendary material (Allen 1979:111)]

"...whether folklore is true or false is immaterial. The fact that it is communicated from one person to another, either orally in face-to-face conversation or visually, by example, rather than being drawn from written materials, is its significant feature..." (Allen and Montell 1981:23)

A consideration of eight characteristics of orally communicated history... These characteristics include disregard for standard chronology; emotional association of persons as a primary organizing principle; clustering of oral accounts around significant events or persons; reliance on visual imagery and striking detail; compression or telescoping of historical time; displacement of original actors in a historical event with others; migration of dramatic narrative elements among historical accounts; and patterning of oral accounts of different events along similar lines" (Allen and Montell 1981:25-26).

"Arguments for and against the use of oral sources of historical information fall into four basic categories, extending from the totally negative outlook to the totally positive: (1) All orally communicated history is false and should be avoided; (2) orally communicated history, although neatly embellished, does not always make havoc of historical fact; (3) orally communicated history mirrors formal history and may be profitably employed to shed light on social, cultural, and popular aspects of the past; and (4) all orally communicated history is rooted in historical fact" (Allen and Montell 1981:68n).

"The truth in orally communicated history does not always lie in its factual accuracy. Local historians should look for underlying truths contained in values, attitudes, beliefs, and feelings as expressed orally in exaggerations, distortions, and seeming contradictions of historical fact. What people *believe* happened is often as

important as what actually happened, for people think, act, and react in accordance with what they believe to be true" (Allen and Montell 1981:89).

"When information on past conditions and events is obtained from informants in those societies which lack a written record of their past, there is always the problem of ascertaining the accuracy of the data obtained. To give credence to the oral information, in the absence of independent confirmation from, for example, written documents in the case of historical information, it is necessary to establish the constancy and reliability of the recall capabilities of the informants" (Arima 1976:31).

"...even if historically false, oral tradition may still be sociologically 'true'..." (Beidelman 1970:75).

"What about the fellow who lies or creates a myth? It should be pointed out that such a person is also unwittingly giving us a portrait of himself and that the collection of untruths and prejudice is often as valuable as what passes for pristine truth" (Benison 1962:114).

"In the absence of writing--and it has usually been absent--the only explicit means of preserving oral evidence is to continue it orally beyond the lives or lucidity of its original human sources... oral evidence must become oral tradition, cease to be first-hand narrative, and become instead a property of those who tell tales about other men's deeds in olden times. Are such tales ever history, or do they ever in any way perpetuate first-hand, reliable evidence about real history? Put simply: what exactly is the relationship between *oral evidence* and *oral tradition*?" (Bynum 1973:11).

"If there is any greater or unique difficulty about oral sources of historical information as contrasted with written or archaeological ones, perhaps it is only that oral sources so soon become *unrecursible*. Properly speaking, oral sources are people; in a short time they die, and there is no dependable way of consulting them once they are dead" (Bynum 1973:11).

"In reading any record, the historian must ask: Who wrote this? Why? For what audience was it intended? What was it meant to achieve? Can I trust it? Is it contradicted or confirmed by other sources, and are those other sources any more reliable? The need for such scrutiny is even greater in dealing with records about or attributed to American Indians, not because Indian people were any less reliable as a source of information but because so much of what they said survives through the filter of European writings" (Calloway 1994:11).

"Historians customarily have rejected native oral traditions and stories as "mythology" and have given them little credit as a reliable record of events and experiences. In the last twenty years or so, however, scholars have taken new

approaches to broaden our understanding of the Native American past. Ethnohistorians, combining the study of history and anthropology, now try to understand history in the terms of the people who lived through it. They recognize oral traditions as a valuable source, though one that, like the written documents, needs to be used with care: Human memory is fallible, and human beings are prone to remember things differently in the light of experience" (Calloway 1994:17).

"Unlike written testimony, the historical evidence derived through conversation is a joint intellectual product. The historian as interviewer becomes an active agent in the creation of an historical record" (Clark et al. 1980:29).

"Quite early in the development of Native American studies, researchers realized that tribal histories were preserved, not in conventional historical documents, but in orally transmitted accounts. The first extensive attempt to reconstruct tribal history through oral literature was probably that of John Heckewelder, a Moravian missionary who prepared his *Account of the History, Manners, and Customs of the Indian Nations, Who Once Inhabited Pennsylvania and Neighbouring States* from orally transmitted material. Heckewelder's work received an unfavourable reception because of its reliance on the oral literature of supposed savages..." (Clements 1986:xiv).

"It is by no means evident that a long and intimate association with someone will increase the reliability and validity (notions that should, in any case, be analytically distinguished) of his information. Prolonged association could as easily have the opposite effect. Nor is it evident that individuals cannot sustain a web of falsehoods over time. Think of the delusion... Does the "confirmation" of an event by another or even several other members of the informant's culture in fact confirm the event, *wie es gewesen war*, to use Ranke's by now hackneyed phrase? Or do they confirm a verbal pattern--a gloss? It would seem that consistency of accounts over time and among informants is rather more revealing of a cultural orientation or psychological disposition than of the actual occurrence of an event" (Crapanzano 1984:955).

"...the folklorist is not at all concerned with the truth. He is concerned, instead, with all materials that are transmitted primarily through unsophisticated means, which have sufficient currency in time or space to be considered traditional. It doesn't matter to us that a legend does not correspond with historical fact, or that some technique of folk belief is discounted by the physical sciences" (Crowl 1969:19).

"The longstanding controversy about the historical value of oral tradition simmers on the boundaries between anthropology and other disciplines" (Cruikshank 1990:52).

"Lowie, for example, insisted that 'Indian tradition is historically worthless'..."

(Cruikshank 1990:53).

"[Vansina] set out to evaluate oral traditions as historical documents, laid out his criteria for evaluation, identified typologies and began systematic examination of particular cases. Vansina anticipated doubts from historians, the audience he felt compelled to convince. Ironically, his strongest critics have been anthropologists. They objected most to his categories and criteria which stressed objective "truth" or "falsity" in traditions, and to his search for "distortions," "original versions," and "initial informants." "What about sociological truth?," they asked, as they took him to task for his incomplete understanding of fundamental anthropological concepts--genealogies and kinship studies, symbolism, alternative notions of time and space" (Cruikshank 1990:53).

"The issue dividing historians and anthropologists has been and continues to be methodological. It has to do with whether "historical" narratives are about the present or about the past. It also reflects fixed views each discipline has of the other: historians react against the extreme antihistorical positions taken by some anthropologists; anthropologists question what they see as tendencies to extreme positivism in history. Phrased in these terms, the debate leads to a cul-de-sac and provides no ethnographic instruction about how to deal with oral traditions which do seem to include information about the past" (Cruikshank 1990:53).

Vansina, he [Rosaldo] says, was too interested in demonstrating authenticity and truth value in oral testimonies. He mistakenly elevated them to the status of written archival records. For Rosaldo, oral history has only one purpose--reconstitution of the past, not collection for its own sake. Oral traditions are texts to be heard, not documents to be stored. They are cultural forms that organize perceptions about the past, not "containers of brute facts" because all facts are culturally mediated" (Cruikshank 1990:54).

"Oral traditions, he [Rosaldo] argues, are more than simply attempts to rationalize the present... The job of anthropology is surely to provide an account of how nonliterate people conceive of their histories, not to deny their version of how their lives have changed over the years... To plunder other people's narratives for 'veracity' seriously risks misunderstanding their meanings" (Cruikshank 1990:54).

"[In the anthropological] literature, concerns about 'literal truth' of oral traditions were superseded almost a century ago" (Cruikshank 1992:37).

"The problems of equating orally narrated accounts about the past with western notions of history are not new for anthropology. There is growing attention to the question of how researchers can incorporate such oral traditions to reconstruct a picture of the past more balanced than the one that comes to us exclusively from written records. Scholars now pay more attention to the ways people use orally

narrated accounts to talk about their past. More important than the search for a body of orally narrated texts deemed accurate within a restricted western discourse, they say, is the question of how historical consciousness is constructed in societies where essential knowledge has always been passed on by word of mouth" (Cruikshank 1992:38).

"In her thoughtful discussion of narratives told by Yukon elders about the coming of the first whites to Northwestern North America, Catharine McClellan has reminded us that aboriginal oral traditions are not simply one more set of data to be sifted for historical veracity, and that they 'can be fully understood only in relation to the total bodies of literature in which they appear.'" (Cruikshank 1994:150).

"The folklorist...has long been sensitized to recognize the possibilities of fabulation in first-person accounts and fact in third-person accounts... It is difficult to convince many critics that it is as important to analyze the 'inaccurate' account as it is to reconstruct the 'objective reality'" (Danielson 1984:179-180).

"We may reach some agreement that the collective oral record and the personal oral testimony can provide us data with which to construct a quasi-objective past as well as valuable insights into the way in which that past is perceived by community members" (Danielson 1984:186).

"Since Indian traditions about historical events had their origins with different witnesses than did our written records, they are at least potential sources of new information. This is important, since our own written record is ethnocentric and since the white observers seldom knew what went on in the Indian camp... When Indian traditions are evaluated with the same degree of care which would be used for a document and the dubious ones set aside, the remainder may be genuine and valuable contributions to our knowledge of the past" (Day 1972:99).

"It was even more gratifying to find that certain of the old [Abenaki] people remembered traditions which, as children, they had heard from grandparents who were born in the early 19th century. These traditions often touch the historical record at certain points. At these points, they usually coincide with the historical record or are at least compatible with it, and of course go on to present new statements about the event, which, if true, enlarge our knowledge of it. This congruity with history must increase our confidence in the traditions where it is not the result of acquaintance with history, a thing to be watched for in a literate community. That is, the validity of the oral tradition is enhanced by its goodness of fit with the historical data. But the phenomenon which struck me was the frequency with which the traditional statements solved puzzles created by the partial coverage of the documents and the frequency with which the data of history and the data of tradition taken together form a congruous and more believable whole. This phenomenon I have chosen to call *oral tradition as complement*" (Day 1972:100).

"A vast literature deals with the usability and validity of oral traditional history" (Dorson 1964:222). [In 1961 Dorson analyzed this literature in a research report for the United States Dept. of Justice, for use by the Indian Land Claims Commission.]

"The Creeks, Micmacs, Wyandots and Lenapees all speak of a treaty they concluded with the white man, who offered a good price for as much land as could be covered by a cowhide. The white man then cut up the hide into strips and spread the strips over a very large area. This same act of deception was attributed to Dido in Virgil's *Aeneid*, and has been reported from Turkey, Iceland, France, Estonia, Greece, Egypt and Siberia. This trick is indexed as Type 2400, *The Ground is measured with a Horse's Skin*, and Motif K185.1, "Deceptive land purchase: ox-hide measure." Yet if the event is historically false, it is psychologically true, and its incorporation into tribal histories is a fact for the American historian to note" (Dorson 1964:229-230).

"The reliability of oral traditional history is one of the most controversial and even inflammatory questions to perplex humanists and social scientists" (Dorson 1972:199).

"The strongest statement against traditional history on this side of the Atlantic was made by the well known anthropologist Robert Lowie" (Dorson 1972:202). [Dorson (1972:202, 204-205) goes on to discuss Lowie's objections and the academic arguments which followed].

"As a folklorist trained in history, I have long been intrigued by the question of the historical validity and ethnocentric bias in oral history. In 1961 the Indian Land Claims Commission of the Department of Justice in the United States Government gave me a research contract to investigate this matter. Their interest lay in determining how much credence they should place in the arguments to land title by Indian claimants based entirely or largely on father to son oral tradition. As I pursued the widening circles of research scholarship that dealt with traditional history, I soon discovered that a host of scholarly disciplines had fought bitter intradisciplinary battles over the issue. So many scholars had a stake in the outcome: not merely folklorists and mythologists, but archaeologists, anthropologists, classicists, geologists, historians of every hue, students of religions, the Africanist, the medievalist, the Celticist--and one could keep on adding specialists" (Dorson 1973:7).

"The relationship between tradition and history has been the subject of endless controversy, not only in anthropology but in related disciplines as well. There has been much uncritical use of myth as history, but we are no longer as intransigent as Robert H. Lowie..." (Eggan 1967:33). [Eggan goes on to describe the controversy Lowie created with his remarks.]

"It is with the question of the extent to which the memory of actual events is retained in oral tradition that the present paper is primarily concerned... Since Malinowski, we are familiar with the conception of myth as a charter for human institutions, and modern social anthropologists have documented the adjustment of myth and genealogy to existing social reality. But those who work with myth and tradition have continued to be intrigued by the possibilities of extracting genuine historical data from the 'hodge podge of aboriginal lore'" (Eggan 1967:34).

Erickson discusses Passamaquoddy oral traditions about battles or imminent battles with the Mohawks. "I suggest that this set of Passamaquoddy traditions might better serve as a rationale for intertribal enmity on the one hand and as a support for tribal identity on the other. Furthermore, the tradition may be one which might legitimize the boundaries between traditional hunting territories of two language groups. This is not to deny that these various accounts might indeed be rooted in historic fact, but this can probably be resolved only by the archaeologist working with the ethnohistorian" (Erickson 1983:40).

"The oral tradition of the Passamaquoddies in the 1820s held that imminent attack by the Mohawks was possible. It did not matter if the last attack was in 1742, 1759, or if it had never taken place at all. This is not to argue that Mohawk attacks on the Wabanaki were only figments of the imagination. Accounts of earlier Mohawk attacks on the Wabanaki could have been passed on to the Passamaquoddies through the oral traditions of neighbouring groups. The Passamaquoddies may have experienced such attacks while being visitors or residents among neighbouring groups who witnessed the Mohawk scourge. In the retelling of the accounts, Passamaquoddy storytellers put them in familiar and convincing geographical settings" (Erickson 1983:45). "...these stories seem primarily to be points around which the group could rally when the need arose. In 1826, it served to provide a temporary respite from intratribal factionalism" (Erickson 1983:46).

"...efforts to divorce history from fiction are more problematical than they may first appear" (Faris 1980:161).

"Oral historians are increasingly concerned with sources of distortion or other inaccuracy in their work... Both schools of oral history--if that is the right word--affirm the value of the enterprise, but both also share at least some reservations about the direct historiographical value of oral history narratives, given their reliance on memory, their development within an interviewing process, and their susceptibility to alteration when published" (Faris 1980:171).

[Faris distinguishes two types of oral history approaches: First, one that has an archival orientation and where oral history data is valued because of its perishability and, secondly, one in which] "Instead of using oral history interviews only to garner data about past events, the form and content of the interviews themselves become

as important a point of inquiry. The quest is not only for facts, but for the nature of individual memory and historical consciousness; oral history becomes primarily an endeavor of analysis... the very defects of oral history interviews, when viewed from the perspective of traditional historiography, may reveal much about prevailing psychological and cultural myth... memory becomes not only the method, but the object of oral history. As a result, the interviews take on a new interest and complexity, revealing how individuals attempt to understand and describe their pasts, and suggesting finally the ways in which the general culture encourages us to interpret experience... There seems to be finally no need to choose between these two approaches to oral history, since they clearly point to different uses for oral interviews, one interpretive and one archival..." (Faris 1980:172).

"Were they really handed down 'word for word'? There is almost no way of checking this (for even if one earlier version coincides closely, this cannot prove that still earlier ones did too). [The] fact that unfortunately local people believe that accounts are given accurately is not necessarily evidence. Again, the fact that such accounts are often the versions authorized by those currently holding political and/or religious power and, furthermore, are often mingled with praise of the ruling house and its ancestors, means that one must treat them with caution as an historical source. In addition one has to be chary of taking such accounts literalistically. A narrative about first arrival in an area--a common topic--need not necessarily be interpreted as the migration of a whole people" (Finnegan 1970:197).

"The notion that when using 'oral tradition' one can suspend many of the normal critical canons of historical research is, despite the caution of more experienced historians, surprisingly prevalent. Perhaps this is because the various assumptions about oral tradition coming down word for word, about its unitary nature, or about its supposed freedom from individual originality or artistry seem to add up to the conclusion that oral tradition is somehow impervious to the kinds of factors of which historians are so aware with other sources--the effects of, say, prejudice or propaganda, personal interests or fantasies, aesthetic forms, or just the variations between different types of sources" (Finnegan 1970:200).

"One of the concerns of anthropologists with eye-witness accounts and with oral traditions is whether or not they are 'true.' That is to say, does the oral testimony conform to our concept of the truth? Is it factual, in our terms? Does it meet the canons of sound historiography? And here the anthropologist is no different from the historian seeking the answers to these same questions. The question of oral tradition as historical fact is almost as old as modern anthropology itself" (Fontana 1969:366-367).

"It is evident that formal texts transmitted in fixed form are less amenable to change than free texts transmitted in an individual manner. Further, an informant's memory is less likely to fail him if he uses some mnemonic device, such as the hide-painted

calendar records of the Dakota Indians, to help him recall events. And testimony given in public, when the speaker is confronted by a critical audience ready to criticize mistakes, may have a greater claim to stability, if not to truth, than testimony given in private" (Fontana 1969:367-368).

"The investigator also needs to guard against the explanatory interpolation, a modern explanation thrown in by the speaker when events spoken of refer to customs which no longer exist. Or conversely, and this is more often the case, oral traditions themselves change to become explanations of the modern scene. Nonliterate societies are like literate societies in that all men have used history to justify the status quo..." (Fontana 1969:368).

"Finally, and perhaps most important of all, there is the definition of truth to consider. Although anthropologists are often concerned with discerning the truth in oral history as truth is conceived of in our own culture, so are they concerned in knowing how other peoples define truth for themselves. Historiographic methods evolved by Western civilization are certainly not universal, and the members of each culture tend to view the past in their unique way, even as they interpret this past to suit themselves. Notions of history and truth espoused by participants in Western civilization are but few among many. Our way of conceiving of time and of segmenting it into discrete units is not traditionally shared by American Indians..." (Fontana 1969:370).

"To the anthropologist concerned with folk histories, the truth or untruth of oral traditions is irrelevant. What is relevant is that someone else defines truth differently and sees history in a different way. If in collecting oral histories one aim is to get the Indians' points of view, the question of veracity in our terms has little to do with it. It is veracity in their terms which counts" (Fontana 1969:37).

"Since this work is almost entirely dependent on oral sources and on memory, questions emerge about the structure and reliability of memory and about the nature of the interview process itself... For the problem that we face arises not so much out of the interpretation of data as in its creation" (Friedlander 1984:133).

"Some historians, nevertheless, remain highly sceptical of the procedures and claims made for oral history. They argue that retrospective data may be unrepresentative and that it cannot be verified; furthermore, they have expressed grave reservations regarding the psychological process of selective recollection, and question the accuracy of the human memory concerning past events, beliefs and emotions... In defence, oral historians have consistently drawn attention to the well-known deficiencies and biases of the written record... Furthermore, they have highlighted the rich potential of oral evidence... (Gant 1987:27-28).

"...oral history has tended to be criticized by more sociological criteria. These

criticisms are first, that oral data is likely to be unrepresentative of a given group of society. Second, that there is no way of testing its validity, and data of this nature is therefore likely to be unreliable. Further, oral history is saddled with an extra problem--that of recollection, and whether people's memories of past events, beliefs or emotions can now be regarded as valid or reliable historical data" (Gittins 1979:83-84).

"Let us consider the problem of representativeness.... It is not possible to use random sampling, since the sample would have to consist of people who were young fifty or sixty years ago; mortality itself is differential and biased by social class, sex, etc. A further proportion of those surviving may be unable to be interviewed. Thus, those remaining are unrepresentative of that generation as it was, even before a sample is selected" (Gittins 1979:84).

[re: response to Lowie's rejection of Oral Tradition] "...as a matter of fact some traditions are wholly untrue, others are partly true, while still others may be wholly true. Hence the question arises: should *all* traditional evidence be discarded, as methodologically valueless, or do traditions, notwithstanding their unreliability, represent a heuristic tool of some value? ...Dr. Lowie does not strengthen his case by citing creation-myths as proof of the deficient historical sense of the Indian. Commonly enough, the Indians themselves distinguish between a myth and a historical tradition. But even were that not so, who would doubt the word of a woman who tells of having witnessed a child being run over by a street car, solely on the ground of his knowledge that the woman believes in ghosts?" (Goldenweiser 1915:763-764).

"To conclude: when viewed from both the Indian and white points of view, it would be hard to claim that there is to be found in the narratives of the Burnt Ranch massacre very much in the way of 'objective' history which is more accurately represented by one side than the other...Thus one might suggest that the contrasting accounts of an event such as the Burnt Ranch massacre provide valuable guides to the different cultural attitudes involved. It may then be as important a part of the ethnohistorian's task to determine the cultural attitudes which have caused certain events and impressions to be selected and emphasized in favor of others in both the written and oral records, as it is for him to determine what we usually refer to as 'history'." (Gould 1966:42).

"In short, the practice of collecting and using oral data produces its own impetus toward interdisciplinarity" (Grele 1975:276).

[Helm and Gillespie discuss Lowie's (1917) rejection of oral history] "In a few instances Americanists have chipped away at this monolithic and all-encompassing dictum by demonstrating that particular narrative accounts in the oral tradition of specific Indian groups do 'record' happenings, usually occurring within one hundred

and fifty years or so prior to the taking of native testimony... In these inquiries the question, with reason, has not been whether the account is 'accurate' but to what extent is it in accord with the European record, and in what respects (and in terms of what native cultural perceptions) does it depart." (Helm and Gillespie 1981:8).

[re: accessibility of oral traditions] "...numerous primary sources are not accessible to researchers, with the result that the very accessible conclusions drawn from the sources by the collectors are not testable by others to the extent desirable. Both desiderata are, however, important requirements for any scholarly work, and neglecting or disregarding them prevents--even undermines--any fruitful discussion or new insights" (Heintze 1976:50).

[re: accessibility of oral traditions] "The basis for all planning is the assumption that the primary materials collected in the field should, as in the case of archeological finds, not be considered the private property of the collector. Rather, the collector has the obligation--the privilege--of making his material generally accessible in usable form and of presenting it in its original state and free from his own glosses and interpretations" (Heintze 1976:54).

"All forms of oral tradition have their strengths and their weaknesses, but it is generally recognized that their greatest deficiency is an inability to establish and maintain an accurate assessment of the duration of the past they seek to recount. Some would consider them timeless and therefore ahistorical" (Henige 1974:2).

"Beyond the manifest need to collect data intelligently and sensitively, there are obligations to preserve these data and make them accessible to other qualified scholars, for a fundamental canon in the use of historical evidence is that it be capable of being verified or falsified, as the case may be" (Henige 1980:184).

"Unless oral historians move quickly and forcefully to ensure effective means of access to their materials, they risk their work being suspected or even rejected because, while it may often pass the test of verisimilitude, it nearly always fails the far more important test of verifiability" (Henige 1980:192).

"This peculiarly symbiotic relationship between sources and synthesis makes it all the more important that the historian arrays his sources scrupulously and makes them fully available to anyone with a legitimate interest in the results of his work. The failure by many oral historians to fulfil this obligation should be cause for concern by all who value oral research as one tool for studying the past. The evaluation of data, arguments, and conclusions by one's peers has long been a basic tenet of scholarship..." (Henige 1982:4).

"However reluctantly, we must assume that many contemporary versions of traditions are to some extent the debris of an obliterated past, the result of its

mental landscape being repeatedly exposed to weathering, its shapes deposited in secondary patterns and shifting with the wind. Inevitably, many traditions cannot be regarded as historical fact. Accepting this will be hardest when there is nowhere else to turn, but this is a pity rather than an argument" (Henige 1982:4-5).

[discussion of Lowie's (1915) rejection of oral traditions] "Several of Lowie's subsidiary observations were sensible and he put his finger on a serious weakness of most oral evidence--the inability to support it independently and thus to accept it without lingering doubts, but of course this characteristic is shared by a great deal of written data as well. But it was Lowie's unabashed certitude and unedifying blend of deliberate and reflexive cultural superiority, which at least now seem so out of place in a trained anthropologist, that make even his best arguments seem no more than unwitting reflections of the most insensitive cultural attitudes of his time" (Henige 1982:17).

"One of the persistent challenges presented by scholars to oral history regards the reliability and the validity of the interviews. In this connection reliability can be defined as the consistency with which an individual will tell the same story about the same events on a number of different occasions. Validity refers to the degree of conformity between the reports of the event and the event itself as recorded by other primary resource material such as documents, photographs, diaries, and letters. Now, while it is conceivable that an oral report might be a true description of an event, its validity cannot really be tested unless it can be measured against some body of evidence. Without such evidence, an isolated description of an event becomes a bit of esoterica whose worth cannot be properly evaluated... An informant can therefore be reliable (the same story emerges each time it is called for), but the story may or may not be a valid representation of the original events as judged by comparison with other sources. If, however, an informant is unreliable, the validity of the reports must be suspected. In short, in historical assessment, as in the area of psychological assessment, a data-gathering instrument can be valid only to the extent that it is also reliable" (Hoffman 1984:67-68).

"'Belief' may mean that the narrator considers the tale to be 'true,' or it can mean that the happening in the tale is described in realistic terms which make it 'real,' or so to speak, palpable, to the narrator. A 'real' story is always also regarded as 'true,' but the opposite relationship does not hold. A tale dealing with a vitally meaningful, important theme will be regarded as 'true' even if its setting is 'unreal.' In this sense, myths are 'true' although their settings may be completely unreal. The truth aspect is bound to the meaning the tales bear..." (Jason 1972:143).

"The controversy over the value of oral traditions is well known and all that need be said here about it is that at present the climate of opinion among scholars is more favourable to their use in historical research. The voices of men such as Robert Lowie, who once declared that he could not 'attach to oral tradition any historical

value whatsoever under any conditions whatsoever'...no longer seem to receive a sympathetic hearing" (Latukefu 1975:45).

"While accepting the view that no absolute truth can be expected from oral traditions since those who preserve them probably do so for reasons of social, economic or political advantage, and while agreeing with Malinowski that distortion results from the sociological functions of current historical traditions, I could not accept the argument that they have no historical value whatsoever... If social scientists were seeking only bias free evidence they would have very little indeed to go on, even with written documents. The question that confronted me, therefore, was not whether to ignore or use oral traditions, but rather how, in using them, distortions could be detected and the likely sources of bias given proper recognition" (Latukefu 1975:45).

"But the key question facing oral history was simply one of validity as historical evidence. Could an oral interview supply acceptable historical evidence about events in the past?" (Lothead 1976:8).

"We are not concerned with the abstract possibility of tradition preserving a knowledge of events; we want to know what historical conclusions may safely be drawn from given oral traditions in ethnological practice. And as regards this purely methodological question I can only say...that I cannot attach to oral traditions any historical value whatsoever under any conditions whatsoever. We cannot know them to be true except on the basis of extraneous evidence, and in that case they are superfluous since the linguistic, ethnological, or archaeological data suffice to establish the conclusions in question" (Lowie 1915:598).

"In the first place, it may not be unnecessary to state that in denying to oral traditions of primitive tribes their face value, we are not denying to them *all* value whatsoever. On the contrary, it is clear that even the wildest and manifestly impossible tales may be of the utmost importance as revelations of the cultural status of the people who cherish them, whether as annals of incidents that once occurred or as purely literary products of the imagination" (Lowie 1917:161-162).

"Grele's attempt to 'understand the people we are interviewing and their historical point of view' through the structure of the interview is a valuable counter to the acceptance of interview data as positivistic 'facts'" (Lummis 1981:112).

"The problem of using interviews as if they were a representative sample is an issue which needs to be discussed. At present, historians simply assume that their informants' experiences are in some sense typical of whichever group they come from, the parameters of that group affinity being set by the historian..." (Lummis 1981:115).

"...our fieldwork experiences as oral historians force us to recognize the 'transactional' nature of the interview method in which the face-to-face interaction involved in oral interviews affects the nature of the materials obtained" (McMahan 1989:xiv).

[re: 'response bias'] Specifically, the issue is the relationship between what people do and what they *report* about those doings... There is general agreement about the short answer to this question. Across several types of events and under numerous conditions, there is no comprehensive agreement between informant reports on the one hand, and independently recorded observations about those events on the other" (McNabb 1990:116-117).

"It should be evident that this not an 'either-or' situation but that all peoples have some historical knowledge and some non-factual beliefs. The question, therefore, is not whether a folk tradition can include historical knowledge, but rather of determining how much historical knowledge is present and how long a time-span it covers. This cannot be generalized for all peoples, but must be determined by investigation in each case" (Meighan 1960:59).

"It should also be noted that our Paiute 'history,' which is admittedly very thin, somewhat confused, and with one or two legendary events thrown in, is nonetheless a more reliable history than can be obtained from the modern educated whites in the same area. For a real legendary account of almost pure fantasy, ask the local farmers about the archaeological remains on their property. How is it that the illiterate, unschooled Paiutes, many of whom do not even speak English, know more about it? The answer, we feel, is simply that it is their land, they have been there for thirty generations and more, their ancestors saw those communities when they were living villages, and the old people talked about it to the young" (Meighan 1960:60).

"...it seems to me that we still have to prove to historians and to ourselves the validity of the oral tradition, of folk history, particularly for Algonquian history" (Morantz 1984:171).

"...even when there is no historical data to compare it to, we have reached the point where oral tradition ought to be considered in itself trustworthy historical material, subject only to the same tests of internal consistency and credibility that we use for all historical accounts" (Morantz 1984:186).

"...oral history is looked upon with suspicion in more orthodox historical quarters as being substandard evidence. Actually, much of the more traditional evidence is subject to the same intellectual reservations. Each 'document' creates its own new reality that is an abstraction of the people, places and events it represents in history. So those who practice oral history should do so with the firm conviction that the

evidence they are collecting is not second-rate just because it is oral history. At the same time, they should be aware of the limitations" (Moss 1974:10).

"Outside of Mesoamerica and the Andean region, evidence for the careful maintenance of reliable long-term historical traditions is slight. Lowie's well-known strictures, probably somewhat exaggerated, against placing much historical credence in the oral traditions of nonliterate peoples generally...would seem to apply fairly to the remainder of the New World, although there are doubtless significant exceptions in specific cases" (Nicholson 1955:595).

"As with other types of historical source, the basic questions about oral testimony relate to how it is tested and used, and the degree to which it is relied on. No sensible historian should ignore it, if it is available--nor...rely on it entirely or even primarily. This difficulty can be readily seen from a glance at the deficiencies of any other 'one source' history--say history based entirely on newspaper accounts, or on quantification from statistics: here is valuable information, but it is highly partial, if only in the sense of being radically incomplete" (O'Farrell 1979:4).

"The basic problem with oral testimony about the past is that its truth (when it *is* true) is not primarily about what happened or how things were, but about how the past has been recollected" (O'Farrell 1979:4-5).

"Oral history is suspect in terms of authenticity, veracity, and the credibility of its sources; it is unreliable and soft evidence. The rebuttal has been that oral testimony must always be scrutinized to determine the expertise, authority, reliability, and competence of the source. In other words, no more or less is expected of the oral source than is expected of the written record" (Osborne 1991:17).

"Carefully used and evaluated, oral traditions of native peoples can shed light on historical events. This was demonstrated vividly in a paper by Gordon M. Day of the Museum of Man. 'Oral Tradition as Complement', as the paper was entitled, set the oral traditions of the Abenaki people alongside the written records in an attempt to reconstruct what really happened when Major Robert Rogers and his Rangers destroyed the Abenaki village of St. Francis in the year 1759. A sober assessment seems to show that the event did not happen exactly the way Francis Parkman and other English historians have told it" (Ostry 1978:4).

"While oral history has special strengths and characteristics one also hears questions about its validity and usefulness, usually in comparison with written records. One criticism is that oral history is unreliable for 'hard facts' and that it must be compared with other records to verify its accuracy. Certainly, information gathered from an interview should be checked against other sources but this verifying process applies not only to oral history but also to every type of record"

(Reimer 1984:2).

"Skepticism of oral testimony dates back equally as far [as the ancient Greeks]. Thucydides complained that 'different eye-witnesses give different accounts of the same events, speaking out of partiality for one side or the other or else from imperfect memories'" (Ritchie 1995:2).

"The most naive policeman knows that a witness should not always be taken at his word," wrote the French historian Marc Bloch. "Similarly, it has been many a day since men first took it into their heads not to accept all historical evidence blindly." Oral history is as reliable or unreliable as other research sources. No single piece of data of any sort should be trusted completely, and all sources need to be tested against other evidence" (Ritchie 1995:6).

"The skeptics distrust eyewitness accounts as too subjective. When historians describe evidence as 'objective,' they mean not only unbiased but also unchanging, such as documents that remain the same over time even if interpretations of them shift. 'Subjective' suggests a partial and partisan point of view, less reliable because it is subject to alteration over time" (Ritchie 1995:7).

"A second type of direct evidence is formed by statements, whether as formal legends or personal information, regarding the age or relative sequence of events in tribal history made by the natives themselves... When they refer to the distant past, they must be handled with a good deal of reserve, for experience shows that the historical and mythical merge inextricably beyond a certain point. Nevertheless, I believe that there has been in certain quarters decidedly too much of a tendency to make light of all Indian accounts of migration and tribal or clan movements... if we are told in Hopi clan legends that a particular pueblo received accessions from certain quarters, we need a more powerful argument than a general lofty scepticism to convince us of the total lack of historical value of such statements" (Sapir 1916:6-7).

[re: restrictions and limitations of oral historical research] "First, the evidence gathered from an informant who describes certain events and his reaction to them is usually subjective. Second, the informant may tend to censor certain details and conveniently forget too personal or intimate ones. Third, there may be a problem of the informant's age, his memory may fail him, or he may unintentionally mix certain events" (Seligman 1989:177).

"Nowadays one rarely meets the old uncritical radical disavowals of any evidential value of oral tradition, or the opposite naive belief in its literal and complete historical validity" (Sturtevant 1966:26).

"How reliable is the evidence of oral history? The question will be familiar to any

practising oral historian. Our first task here will be to take it at face value, and to see how oral evidence stands up when 'assessed and evaluated in exactly the same way that you would evaluate any other kind of historical evidence'. But as we shall see, the question poses a false choice. If oral sources can indeed convey 'reliable' information, to treat them as 'simply one more document' is to ignore the special value which they have as subjective, spoken testimony" (Thompson 1988:101).

"As every experienced oral historian knows...the simple assertion and counterassertion that oral history sources are reliable or not, true or false for this or that purpose, obtained from this or that person, obscures the really interesting questions. The nature of memory brings many traps for the unwary, which often explains the cynicism of those less well informed about oral sources. Yet they also bring unexpected rewards to a historian who is prepared to appreciate the complexity with which reality and myth, 'objective' and 'subjective', are inextricably mixed in all human perception of the world, both individual and collective" (Thompson 1988:135).

"There have been a good many anthropologists who have argued that oral traditions are so malleable under social pressures, so continually shaped and reshaped by changing social structures and consciousness, that their value is not only purely symbolic, but that only for the present... Vansina vigorously rebuts such extreme functionalism: while it is true that 'all messages have some intent which has to do with the present, otherwise they would not be told in the present and the tradition would die out', the notion that traditions retain no messages at all from the past is an absurd exaggeration... If nothing from the past were left, 'where would social imagination find the stuff to invent from? How does one explain cultural continuities?'" (Thompson 1988:147).

"Yes, oral traditions are documents *of the present*, because they are told in the present. Yet they also embody a message *from the past* at the same time. One cannot deny either the present or the past in them. To attribute their whole content to the evanescent present as some sociologists do, is to mutilate tradition; it is reductionistic. To ignore the impact of the present as some historians have done, is equally reductionistic. Traditions must always be understood as reflecting both past and present in a single breath" (Vansina quoted in Thompson 1988:147).

[re: D.W. Cohen] "In challenging the 'Vansinan' model of transmission... he sees further that the very notion of transmission implies a channelling of information over time which is itself asocial. That is, there is no invisible text which is somehow talked out again and again, with varying degrees of corruption or interference; only living speakers, who speak and remember at need. Therefore, 'the general processes of historical information in society...are not orderly, are not predictable, and are not reconstructible'" (Tonkin 1986:207).

"Cohen objected to Vansina's privileging of 'formal tradition and framed modes of transmission' and argued that 'the general processes of circulation of historical information in society...are not orderly, are not predictable, and are not reconstructible. In this sense, there is no 'original tradition' and no 'discernible chain of witnesses'" (Tonkin 1992:88).

"Questions of authenticity, authorship, locality, and dating are at the heart of the external critique concerning written documents, because they allow us to establish the context for a critique of their content. With oral tradition these questions receive very different answers... We can only ask whether a given performance that claimed to be part of a tradition is indeed part of a tradition or not... The *Walam olum* of the Delaware or Lenape Indians (United States) was said to be a very complex ensemble of traditions backed by pictographs as mnemonic aids. They were for many years treated as the most significant body of American Indian traditions from the eastern United States... The tradition is likely a forgery. Did Raffinésque himself fake the objects and invent the tradition? Or was this an effort by Delaware Indians involved in a revival movement? We don't know, but we know enough to discount the *Walam olum* completely as a tradition" (Vansina 1985:54-55).

"Historical truth is also a notion that is culture specific. The notion is important to the historian because it guarantees that past historical traditions, claimed to be 'true,' have or have not been faithfully transmitted... In many cultures truth is what is being faithfully repeated as content and has been certified as true by the ancestors. But sometimes truth does not include the notion that x and y really happened" (Vansina 1985:129).

"...lack of chronology and interdependence of sources are limitations that are truly characteristic of tradition" (Vansina 1985:186-187).

"In applying the rules of evidence to oral traditions we have constantly questioned the reliability of the information they yield. Superficially, this leads to gloomy conclusions because cases of unreliability are piled one onto the other. One should remember however, that not all traditions automatically are unreliable, even though all have limitations. And one should temper this critical approach with a realization of what oral traditions can contribute" (Vansina 1985:197).

"Few historians and anthropologists today, one hopes, would give their unqualified assent to Robert Lowie's statement that Native American oral traditions lack 'any historical value whatsoever under any condition whatsoever.' ...Nevertheless, since the debate over oral history in the Lowie era, few are hesitant about qualifying the degree to which they take exception to Lowie's dictum" (Wiget 1982:181).

"...the distortion in oral history is a measure of the displacement of the source-language tradition from the receptor-language paradigm" (Wiget 1982:182).

"A fourth view...is the one which holds that oral traditions are often directly based on historical fact. This view has many adherents among American folklorists, especially the school represented by Richard M. Dorson and his students. This view argues, contrary to Raglan's thesis, that folk heroes are derived from actual historical events, that traditions about heroic acts are often authentic records, if not specifically accurate in detail" (Wylie 1973:710).

6.17 TESTING

"Two kinds of tests can be applied to oral sources of historical information: internal tests, which evaluate the material in terms of its own self-consistency; and external tests, which compare and contrast oral information with written accounts and physical evidence" (Allen and Montell 1981:71). The authors go on to explain each kind in detail. Internal tests: identifying folklore themes, collating divergent accounts, allowing for embellishment, the logical nature of tradition, conformity with established historical facts, evaluating oral sources, allowing for personal and group bias. External tests: corroboration from material culture, corroborating tradition from continuation in same area, corroborating tradition through ethnic or racial groups, corroboration from printed records, corroboration from accounts in regional historical literature (Allen and Montell 1981:71-87).

"In 1961, Richard M. Dorson prepared a contract research report for the [United States] Indian Land Claims Commission of the Department of Justice, titled "The Historical Validity of Oral Tradition." In that document, he suggested certain criteria for evaluating the veracity of oral traditions of Indian land claims, including the identification of folklore themes grafted onto historical settings, allowance for personal and ethnocentric bias, cross-checking multiple traditions, corroboration of traditions from printed records, corroboration of traditions from geographical landmarks, corroboration of traditions from material culture, and a personal knowledge of the character of the informant" (Allen and Montell 1981:71n).

"In ethnology the primary technique of testing informant reliability has been 'cross-checking' between a number of informants to see whether or not, independently, they each supply the same information on the given subject of enquiry... cross-checking between informants only establishes consistency of information within the group of people being questioned; it does not establish the congruence of this information with empirical reality, although it does seem likely that agreement between informants increases the probability of such congruence or objective accuracy" (Arima 1976:31).

"Another approach to evaluating recall is to compare recollections of unique historic events with either written records from that time, or with earlier recorded recollections of that event noted by other investigators" (Arima 1976:31).

The interpretation of traditional oral material requires that a historian master the rudiments of anthropology (Beidelman 1970:74-75).

"Two or more mutually independent oral descriptions of an event, made by reliable persons who were themselves witnesses to it may provide the same factual detail and objectivity which one would want in written sources. Indeed, many a prime written source has been constituted out of just such oral descriptions, and historical rationality has suffered nothing thereby. For whether his sources are written or oral, an historian has in either case to be equally alert to the possibility of perjured testimony and its motives, not to mention the natural differences of perception and viewpoint that make one man's witness different from another's regardless of whether it is rendered in written or spoken form" (Bynum 1973:10).

"It is difficult to sustain a web of falsehoods over a long period and anthropologists also have the advantage of often being able to match up statements and observations on the spot. When this cannot be done they can use repeated interviews with the same informant over an extended period, constantly checking and rechecking. They can also check an interview with one person against another interviewee and thus uncover inconsistencies and fabrications. Different informants often give quite different accounts of the same thing." (Langness and Frank quoted in Crapanzano 1984:955). [Crapanzano goes on to criticize this argument as a "naive empiricism"]

"...well-intentioned but uncritical use of *oral traditions* from one culture as though they are equivalent to *historical evidence*, as defined by another culture, may lead to misrepresentation of more complex messages in narrative. Attempts to sift oral accounts for so-called 'facts' may, ironically, underestimate the value of spoken testimonies by setting positivistic criteria for assessing truth value or distortions. Similarly, the idea of recording oral accounts to store in archives for future analysis ignores the way their social meaning is linked to how they are told in the present" (Cruikshank 1988:198).

Suggestions for increasing the "accuracy" of oral history (Cutler 1970).

"...when traditions show good internal coherence and congruence with such historical data as we have, it seems to be a fair presumption that (1) the traditions are trustworthy and (2) they should be taken into account in our reconstructions of the past" (Day 1972:107).

Some criteria can be offered for judging the historical content of traditions: corroborating testimony from archaeology, ethnology, history, geography, linguistics, physical anthropology; the support from mnemonic devices; the presence of professional chroniclers and sagamen; and continuity in the locus of transmission, as opposed to the migration of peoples and their histories. The absence or

discounting of egoistic and folkloristic elements can also strengthen the case. While these criteria have been attacked singly, in combination they carry weight..." (Dorson 1972:220-221).

[re: Goals, Guidelines, and Evaluation Criteria of the Oral History Association]
"Recognizing that the ultimate measure of oral history lies in its reliability as a source for historical understanding, the Association submits that conscientious consideration of every step in its creation is a professional obligation, and that careful attention to the factors raised in the following outline substantially increases the probability of enduring value" (quoted in Dunaway and Baum 1984:416-417) [a copy of the guidelines are reproduced in Dunaway and Baum 1984].

"One final point concerns the necessity for the continued and repeated attempts to elicit oral literary criticism. It is a commonplace that each generation reinterprets anew its folklore, but do we have records of these interpretations and reinterpretations? Sometimes the text is altered to fit new needs, but probably it is the interpretation of texts which changes more. The task of collecting oral literary criticism from a folk can never be completed any more than the task of collecting folklore from that folk can be. Even if both texts and interpretations remained almost exactly the same over a long period of time, this would still be well worth knowing" (Dundes 1975:57).

"...how can we identify the actual events in myth and tradition and what historical conclusions may safely be drawn from given oral traditions? ...One approach to the problem is through a study of the process of myth-making. The Hopi Indians are still creating myths, and for some examples we are fortunate in having independent historical controls" (Eggan 1967:35). Eggan then illustrates how the Hopi have turned historical events into myth. He concludes: "But we can also see from this example that it may be possible to reverse the process--to unravel the traditions and myths and isolate the historical events embedded in them from the motivational and other patterns that have been added" (Eggan 1967:51).

"[Some oral historians] tend to show much concern with verification, interviewing techniques, the mechanics of transcription. Generally archival in orientation, they value oral history data because of its perishability..." (Faris 1980:171).

Finnegan discusses the common assumption that oral tradition "is somehow impervious to many of the factors which historians usually take account of in critical assessment of sources... The common assumption that 'oral tradition' is something uniform, something that can be treated as an undifferentiated and self-evident entity, leads to the tendency of some historians and others to speak of 'oral tradition' generally as a source, without apparently feeling the need--which would be obvious in the case of documentary sources--to describe and analyze the detailed source material" (Finnegan 1970:195).

"In using oral tradition as an historical source, it is important to make clear in each instance under which of these three broad categories a particular item falls: formalized oral literature, informal historical knowledge, or personal recollections. The reason for this is an obvious one. Each type has its own particular dangers or limitations, and critical use of sources involves making these explicit--something which it is impossible to do without differentiating between the categories. The idea that 'oral tradition' is something unitary and can be treated as such runs counter to all the normally accepted historical procedures of assessing each type of source on its own merits" (Finnegan 1970:199-200).

"There are innumerable guideposts to help the traveller who wishes to test the validity of oral testimony. The favored one, of course, is to check the spoken word against the written word, almost as if the written word were something more than verbal testimony put to writing. But primary documentary sources are valued because of their primacy; they are eye-witness accounts rather than oral traditions, and as often as not they were created by eye-witness observers soon after the event they describe. Documents aside, there are other means of rending the tallow of truth from the membrane of oral testimony" (Fontana 1969:367). Fontana goes on to describe Vansina's procedures.

"There are three elements in research design which are crucial to a successful investigation in oral history: firstly, the selection of competent respondents; secondly, the detection and elimination of biased recollections; thirdly an effective strategy for interviewing the elderly" (Gant 1987:28).

"...there are nevertheless ways of testing oral data for its representativeness as well as reliability and validity. The principal way of doing this is to compare findings from oral data with other sources related to the same questions" (Gittins 1979:84). Gittins goes on to compare oral and newspaper accounts of a suicide in 1901.

"Ordinarily attention to historicity in North American Indian oral tradition arises when an investigator recognizes that at least one particular tradition in a people's folk history is a rendering of a situation...or an event already generally known to Euroamerican history...The reverse direction of inquiry is to work *from* a tradition that in the first instance has little or no recognizable historical reality to Euroamerican documentary materials in an effort to determine its historical actuality or potential. In some instances archaeological evidence is germane. This line of approach is apparently less common than the other, which is rare enough in Amerindian research" (Helm and Gillespie 1981:8).

"For the moment [i.e. 1982], the interpretation of oral tradition remains in a state of considerable flux. The idea that traditions are enough like written documents that they can, for example, be subjected to tests that can determine an authentically original core, has given way in most quarters to the realisation that the study and

understanding of oral historical materials is far more troublesome and demanding" (Henige 1982:22).

"...it would obviously be unfair to argue that when oral sources contradict written records, they are always correcting them, since just as often the opposite is likely to happen. Suppose that a group of traditions claim that a settlement at the mouth of a particular river was established more than ten generations ago and has existed continuously ever since. However, if there are numerous travellers' accounts from a century or more ago that all flatly state that the area was then uninhabited, it is they and not the oral traditions that are to be believed if we can be certain that the written accounts are independent and represent eyewitness testimony. The task of the historian is then to ask why the traditions make the opposite claim" (Henige 1982:72).

"...anyone who has not only collected oral materials but worked them into a finished historical account will attest that oral history is most useful when written records are also available. Checking one sort of information against the other is an excellent method of verification. (But when there is a conflict between written and oral documents, it is not always the oral testimony that is unreliable. Occasionally, oral history will cast a new light on written records and prove them false or at least show that they must be interpreted in a new way)" (Hoopes 1979:10).

"The memory is not the most reliable of instruments. But in the case of mass interviews conducted on a common subject, a common experience emerges from individual descriptions which can be authenticated by reference to the handful of pertinent books and articles available and which can be further authenticated simply by the fact that isolated men having little or no contact with one another over the years come up with essentially the same story again and again" (Hoar quoted in Lochead 1976:8).

[Oral traditions] "although sometimes noncommittal and frequently misleading, gain in weight when recorded by several different persons and when taken in connection with other data" (Swanton and Dixon quoted in Lowie 1915:597-598).

"When different observers record the same account in the same tribe it may simply show that the quasi-historical account is part and parcel of the tribal lore; if it is supported by traditions of other tribes, it may simply point to the diffusion of a myth, a well-known phenomenon in ethnology" (Lowie 1915:599).

"The historical sense of primitive peoples can be tested only by a scrutiny of *unselected* samples of their historical lore. It will not do, as some of our colleagues are wont, to reject manifestly absurd tales and to retain those which do not contravene our notions of physical possibility; for by this process we get, in the first place, a selected series of cases, and, secondly, already prejudge the whole matter

by assuming that what is not ridiculously false is historically true" (Lowie 1917:165).

"The validation of oral evidence can be divided into two main areas: the degree to which any individual interview yields reliable information on the historical experience, and the degree to which that individual experience is typical of its time and place" (Lummis 1981:109).

"If an interview is part of an attempt at historical reconstruction of daily life, then the validity of an interview can be assessed for its general accuracy by the degree to which it corresponds to checkable details... In other words, the normal process of maximum triangulation with other sources can go a long way toward establishing the general reliability of the interview" (Lummis 1981:110).

[McDonald et al. note that the location of the escape route used by the Cheyenne during the outbreak of 1879 is controversial; the version discussed by military and local history is incongruent with Northern Cheyenne oral tradition. The authors initiated an archaeological survey of the area and found artifacts consistent with the Cheyenne version.] "Taking into account all information gathered from every available source, the escape routes discussed in Northern Cheyenne oral history are more acceptable than that presented by the military and local historians" (McDonald et al. 1991:72).

"...full understanding of the nature of the oral text develops both from examining the oral text and from analyzing the oral interview process that creates the product" (McMahan 1989:xv).

"It is important to point out that the Witsuwit'en and other North American Native peoples are carefully trained in the learning of their oral tradition--in this case, their kungax. Children are expected to listen to the kungax with deep attention so that they can retell them accurately; they are carefully trained to remember every detail of the recital. Only someone who is confident that he or she knows a kungax correctly and has the confidence of his or her tutors is authorized to tell it. It is because the Witsuwit'en are very careful to retell only what they have been taught by a reliable source that one sometimes finds two parallel or divergent accounts, each of which began from a different eyewitness of the event. Rather than making an effort to make a consistent whole of somewhat conflicting accounts, a process which is accepted in Western history, the Witsuwit'en consider it a point of accuracy to retain separate and divergent accounts" (Mills 1994:74-75).

"The archaeological, linguistic, historical, and ethnographic record confirms the depiction of the genesis of the Witsuwit'en contained in their kungax. There is evidence that the area has been occupied for over five thousand years, and there is linguistic evidence of a deep association between the Witsuwit'en and their Gitksan neighbours..." (Mills 1994:100).

"Even if fieldwork is confined at some point to dealing with a single informant, there is great benefit in being able at least to observe that informant interacting with other members of the group. Though there is no way of proving it, I suspect that a good deal of the confidence an anthropologist may feel in a particular informant arises from his or her judgements of how *others* regard that informant, as manifested in their interactive behavior" (Mintz 1984:307).

"...the problem of finding independent evidence to validate events alleged to have occurred during this [remote prehistoric] period. In the absence of documentary records, scholars have looked mainly to the findings of archaeology and the environmental sciences" (Moodie et al. 1992:149).

"...oral traditions can and must be submitted to the same procedures of historical evaluation and verification applied to any other evidence from the past. Compared to the application of historical method to documentary evidence, the results may not always be as satisfactory, but, as Vansina...has observed... 'It is not uncommon for a tradition to be corroborated by other independent traditions, or by data from other disciplines or written records. Such a coincidence establishes a high degree of probability for the historical reality of such information. Then it must be remembered that *all* history is a matter of evaluation and of probabilities...In any case, the cardinal rule for all sources remains true: they must be used in conjunction with all other available evidence'" (Moodie et al. 1992:151-152).

"Day...writes of the careful and deliberate training of young Abenaki children until some know the old stories verbatim" (Morantz 1984:173).

Algonquians, specifically the Cree in James Bay and the Montagnais of the Lower North Shore, distinguish in their oral tradition two types of stories or narratives--one mythical and the other real. These they term *atiukan* and *tipachiman*... Suffice it to say here that the *atiukan* or myths are stories concerning the creation of the world when...men and animals were not differentiated. The *tipachiman* or true stories are of real people, living, or their ancestors...The category known as *tipachiman* is, of course, the Algonquian equivalent of history. A Cree story teller usually makes it clear which type of story he is telling" (Morantz 1984:174).

"...in the words of Day... 'when the traditions show good internal coherence and congruence with...historical data...it seems to be a fair presumption that 1) the traditions are trustworthy and 2) they should be taken into account in our reconstructions of the past'" (Morantz 1984:186)

"Recently Helm and Gillespie (1981) published a paper in which they look at one event found in Dogrib oral history and show its validity by comparing it to the Hudson's Bay Company material. They analyzed each oral statement and supported it with the equivalent documented statement. Furthermore they collected

this particular story from no less than five informants and more general testimony for this particular Dogrib period from an additional seven individuals. This kind of exacting testing of the data simply does not take place for the written records...We have been using all these written materials uncritically while at the same time subjecting the Indian folk history to extraordinarily rigorous testing..." (Morantz 1984:186).

"There is practically no opportunity in oral history for the controlled testing of evidence that characterizes scientific research. Oral history information may be tested in a variety of situations, and standard questions may be asked of a large group of respondents, but the factors affecting the answers are not subject to systematic and scientific control by the interviewer" (Moss 1974:10).

"Most scholars trained in the sciences and social sciences need no reminders of the rules of evidence. However, many practitioners of oral history may not be in the habit of the testing and comparing of evidence that scholarship requires" (Moss 1974:10).

"Initially, a thorough critique must be applied to the *transmitting* source to determine whether the tradition was actually current in the indigenous group and was accurately recorded. Second, assuming this to have been satisfactorily demonstrated, a further step is required: a careful analysis of the historical reliability of the tradition *itself*. This all-important second step obviously encounters special difficulties and must be prosecuted with particular care and good judgement, enriched by a profound knowledge of the cultural milieu which generated the tradition" (Nicholson 1955:595).

"Granted that a rigorous critical examination of the tradition has been undertaken and a solid core of highly probably historicity tentatively established, there still remains the problem of tying it in with the results of actual field excavation. The major difficulty faced when this step is reached is the simple, but apparently often overlooked, fact that these two sources of information are customarily concerned *with distinct aspects of the culture*" (Nicholson 1955:596).

"The historian's training ensures, or should ensure, that the oral record will only be a part, usually a small part, of a much larger research effort and that it will be used with discrimination and be subjected to thorough critical analysis" (Oliver 1976:17).

[The Cree distinguish between] "*atiukan* stories which no one can remember to whom or where the events took place, and *tipachiman*, stories of more recent[sic] events" (Preston 1986:253).

"Treat oral evidence as cautiously as any other form of evidence. Documents written at the time have an immediacy about them and are not influenced by

subsequent events, and yet those documents can be incomplete, in error, or written to mislead. A statement is not necessarily truer if it is written down at the time than if recalled later in testimony. Whether written or oral, evidence must be convincing and verifiable" (Ritchie 1995:92).

[re: Principles and Standards of the Oral History Association] "In recognition of the importance of oral history to an understanding of the past and of the cost and effort involved, interviewers and interviewees should mutually strive to record candid information of lasting value and to make that information accessible" (quoted in Ritchie 1995:208).

[re: a study which attempted to cross-check the validity of selected oral history interviews by using a quantification approach called Q methodology; the authors conclude:] "Oral history and Q methodology do not contradict each other by definition or practice. In most cases, the findings of one reinforce those of the other" (Sharpless 1986:106).

[Oral history] "...is also quite hazardous for the researcher, since memory is fallible, ego distorts, and contradictions sometimes go unresolved. Yet problems of evaluation are not markedly different from those inherent in the use of letters, diaries, and other primary sources. With *caveat emptor* ever in mind, the scholar must test the evidence in an oral history memoir for internal consistency and, whenever possible, by corroboration from other sources, often including the oral history memoirs of others on the same topic" (Starr 1978:440-441).

"Even in their published reports, ethnographers are too often vague on some of the details required for the evaluation of their materials--sometimes, no doubt, because to be explicit would be damaging to their credibility. If fieldwork is the production of primary ethnographic documents, the author should feel an obligation to assist those who will apply the historian's canons of criticism of sources. Yet, very often, inadequate information is provided on such crucial aspects as the precise dates and locations of fieldwork, the number, names, and sociological characteristics of the principal informants, and the degree of the fieldworker's facility in the local language, or in the quality of the interpreters he used" (Sturtevant 1966:19).

"A great deal of the evaluation--'criticism' in historians' terms--of oral tradition as historical evidence depends upon detailed ethnographic knowledge of the social functions of folk history, of its manner of transmission, its variability within any one society, the local criteria for historical truth, and other features of folk history as a system within the culture under study...rather than as isolated scraps of ideas" (Sturtevant 1966:26).

"A vivid example of the need to consider the cultural setting of historical traditions, and to compare versions, is provided by Mohave Indian 'historical epics.' These

were very long, exceedingly detailed, circumstantial, sober, and concrete accounts of Mohave migrations, cast in a form which appears flatly historical. Yet by examining the manner in which these tales originated--by 'dreaming'--by a comparison of different versions, and from a few improbable or impossible motifs contained in the tales, Kroeber concluded that these stories were 'pseudohistory,' products of imagination, literary efforts, and not in the slightest historical by our own criteria (1951), although they were plainly historical by the criteria of Mohave folk history" (Sturtevant 1966:26-27).

"Comparison with documentary evidence is a useful method for evaluating the reliability of oral tradition. Where the tradition and the documents derive from different cultures, the combination of the two points of view will often give a more rounded picture of historical events" (Sturtevant 1966:31).

"The real aim of the life-history sociologists or the oral historian should be to *reveal* sources of bias, rather than pretend they can be nullified..." (Thompson 1988:117).

"For many projects, as on an event, or about a small group of people, the issue is not representativeness, but who knows best. As the sociologist Herbert Blumer puts it, the search ought to be for *validity* rather than for reliability: 'a half dozen individuals with such knowledge constitute a far better 'representative sample' than a thousand individuals who may be involved in the action that is being formed but who are not knowledgeable about that formation'" (Thompson 1988:130).

"Just as in the selection of informants there are no absolute rules, but rather a number of factors to be taken into account, so in the end there are only useful guidelines to indicate when oral sources can be most reliably used, just as there are for other historical sources. The basic tests of reliability... --searching for internal consistency, cross-checking details from other sources, weighing evidence against a wider context--are just the same as for other sources. All are fallible and subject to bias, and each has varying strengths in different situations" (Thompson 1988:132).

"There are three basic steps which must be taken. First, each interview needs to be assessed for internal consistency. If an informant has a tendency to mythologize or to produce stereotyped generalizations, this will recur throughout an interview...Any extensive suppression or invention will produce extremely obvious inconsistencies, contradictions, and anachronisms... On many points a cross-check can be made with other sources. This can of course be a cumulative process as material is gathered in: a series of interviews from the same locality will provide numerous factual cross-checks between each other. Details can similarly be compared with manuscript and printed sources... Where there are discrepancies between written and oral evidence, it does not follow that one account is necessarily more reliable than another. The interview may reveal the truth behind the official

record. Or the divergence may represent two perfectly valid accounts from different standpoints, which together provide vital clues towards the true interpretation... The third method by which such a judgement can be reached is by placing the evidence in a wider context. An experienced historian will already have learnt enough from contemporary sources about the time, place, and social class from which an interview comes to know, even if a specific detail is unconfirmable, whether as a whole it rings true" (Thompson 1988: 239-241).

"Much can be learned form [sic] the past from oral sources that are not concerned with the past and hence testify despite themselves. Indeed, that characteristic makes them more reliable precisely because they are unconscious contributions" (Vansina 1985:28).

[re: use of convergent lines of independent evidence (by assembling all possible reports on a single incident) to cross-check one another] "Oral historians working with a relatively recent past, in which the majority of data stem from narrative reminiscences, which are not yet standardized nor widely spread as information throughout the community, can use... [this approach]--up to a point. But most research dealing with oral tradition cannot, because the sources are no longer independent. They do not 'confirm.' The pool of information kept in memory and its relatively free flow means that we cannot assume that the testimony of two different informants from the same community or even society is really independent. This is very important. In history, proof is given only when two independent sources confirm the same event or situation, but this proof cannot be given under most conditions from oral sources alone... it is not possible to do this with oral tradition wherever a corpus exists and information flows are unstemmed (i.e., in most cases). Feedback and contamination are the norm. The further one goes away from the present the more this rule holds. It holds already for most renderings purporting to deal with the past beyond the lives of the living elders in a community. This becomes true to such a degree that when one does find converging evidence in such traditions one must assume that they are dependent on each other, that they are renderings of a single tradition" (Vansina 1985:158-159).

"What is there then to do? ...oral tradition is to be used in conjunction with writings, archaeology, linguistic or even ethnographic evidence, etc. It can confirm the other sources and be confirmed by it. This does not mean then that a written source is *a priori* better than oral one. It does not mean that oral sources are useless when they are confirmed by writing, because in this case, the written document is also confirmed by the oral data. It means that, when a written document and a tradition converge, both are part of the proof. The evidence now is of a wholly different order of plausibility than if just one of the two were available. As long as traditions are not independently confirmed the evidence they present can best be described as 'on probation.' Such evidence is not worthless. It has a certain plausibility and forms a hypothesis that should be tested first, before any other hypothesis is considered.

A body of tradition thus becomes an agenda for research" (Vansina 1985:160).

"The effects of a lack of chronology in most societies...can only be partially remedied by recourse to outside sources. This is easier said than done. The obvious sources that come to mind are outside written documents or archaeology" (Vansina 1985:187).

"..cases of overlap do occur from time to time where oral tradition confirms or completes written accounts. Thus in 1759 Franco-British rivalry in Maine (United States) involved the local Abenaki Indians, whose oral accounts were not written down before 1869. These confirm both French and British accounts and resolve at least one contradiction between the written versions" (Vansina 1985:189).

"Chronology and lack of independence are real problems for oral traditions. They can be overcome or alleviated in some cases by outside evidence, but because the contents of outside evidence tend not to be congruent with the contents of oral tradition such cases will remain the exception rather than the rule" (Vansina 1985:190).

"The discipline of history evolves as much through reconsideration of older evidence as through the adduction of new evidence, and oral data should be part of that process. This means that field researchers should make available not only their interpretations, but also their recordings of tradition and, equally important, the necessary data for their evaluation" (Vansina 1985:200).

"Determination of accuracy [of Hopi traditions] will be based for the most part on corroboration of the oral testimony by those few Spanish documents that survived... Other sources such as archaeological evidence, have also been brought to bear upon the oral tradition" (Wiget 1982:183).

"The record to date indicates that a mere collection and collation of oral data is not enough. What is needed is analysis of the oral as well as the written documents. In short, ethnohistory must make rigorous use of all pertinent written documents along with equally precise and systematic use of whatever oral data are available. Neither the use of the oral tradition nor documentary evidence alone can result in ethnohistory. To carry the conclusions of this survey further, it is not enough merely to use both oral and written 'documents.' Both types of sources must be used in methodological conjunction" (Wylie 1973:720).

6.18 LONG-TERM TRADITIONS

It has been suggested that the *giant beaver* tale among the northeastern Algonquians involves a "fossil memory" of the long-extinct, Pleistocene giant beaver

known as *Castoroides ohioensis*. If this is, indeed, the case, it would involve a cultural memory of thousands of years (Beck 1972).

[Dorson (1972:203-205) discusses the controversy over Amerindian oral traditions about extinct Pleistocene mammals.]

[Loren Eiseley (1945) responds to Strong's article about "North American Indian Traditions Suggesting a Knowledge of the Mammoth". He alludes to late-eighteenth century source materials which] "threw light upon events which, I have become convinced, have played their part in creating a favorable background for the development of legends about extinct beasts in the New World... the latter half of the eighteenth century and the earlier portion of the nineteenth century were a favorable seed bed for the creation of myths such as we have been discussing. We have, in short, occupied ourselves with so-called aboriginal tradition. Rather strangely, for anthropologists, we have paid absolutely no attention to the intellectual environment, the cultural milieu out of which many of these legends, endlessly repeated in the literature, came" (Eiseley 1945:84-85). [After assessing the evidence he observes that] "these stories seem to show a suspicious growth in numbers just at the time when white interest and enthusiasm were keenest... the American Indian, far from living in a vacuum, was being affected by the zoological enthusiasms of his white contemporaries" (Eiseley 1945:87).

[re: Saulteaux] "It is noteworthy, for example, that in many of the mythological narratives, the form of the name given to familiar animals contains the augmentative prefix. There are references to the Great Snake, the Great Mosquito, the Great Beaver, the Great Trout, etc. This has a temporal significance. Formerly the earth was inhabited by many of these monster species now only represented by smaller varieties of their kind. In the myths there are likewise accounts of how certain of these great animals became extinct (the Great Mosquito) or how the familiar variety of the species came into being (as, e.g., small snakes). It was explained to me that the mythological characters had power enough to overcome the monster fauna but that ordinary human beings would be constantly harassed if they had to live on the earth with such creatures today. Nevertheless, a few such species still survive according to the firm conviction of the Indians. There are Indians now living, in fact, who have seen them. But the events in the myths which involve the monster animals are conceptualized as occurring in the distant past. They took place 'long ago' in a period when the earth was 'new.' Consequently a temporal distinction is recognized between those days and the present" (Hallowell 1937:668).

[Lankford reviews previous studies on Pleistocene animals in folk memory, but concludes that] "There does not, however, seem to be any reason for seeing those memories in the texts which have survived" (Lankford 1980:304).

[Montagu (1944) reprints an 1840s Osage tradition allegedly relating to the

Mastodon]

"Dr. Strong considers the Naskapi monster Katcheetohuskw as reminiscent of the mammoth...Both Speck and Michelson agree that the monster bear is purely mythical, and not reminiscent of the mammoth or mastodon. However, the three writers do not attempt an explanation of the tale in terms of aboriginal beliefs" (Siebert 1937:721) [Siebert goes on to explain these oral traditions, not as a memory of Pleistocene mammals, but in terms of aboriginal belief].

[Speck comments on Strong's (1934) article concerning the memory in native tradition of the actual existence of the mammoth in post-Pleistocene times. Speck (1935:160) argues that the supposed "mammoth" was actually a mythological bear]

[Strong provides evidence of North American Indian traditions suggesting a knowledge of the mammoth] "In the light of this general mythological background suggesting a dim but actual tradition of the time when the mammoth lived in North America, I incline to regard such accounts as the above from the Naskapi, Penobscot, and those recorded by Charlevoix, Morgan and Swanton, as historical traditions rather than mere 'myths of observation' or recent Caucasian introductions" (Strong 1934:87).

6.19 SHORT-TERM TRADITIONS

"Recollections by Inuit or earlier visits, by Whites, to their country, particularly those exploratory expeditions which have been historically documented, often show great persistence of memory. A striking example is the recollection of the 1576-1578 voyages of Martin Frobisher to the great bay bearing his name in southeast Baffin Island, as recorded three centuries later by Charles Hall in 1861-1862... Even if the main aged informant was a centenarian, as Hall believed, recall reaches over two centuries. The old informant said that ships came every year: first two, then two or three, then very many, which corresponds to the historic record of two vessels in 1576, three the following year, and 15 the next... Inuit tradition said five of themselves were killed while White history stresses the capture of five sailors who landed in a small boat and their probable murders. [The oral tradition] ...remains a remarkable instance of longlived and detailed recall with accuracy attested with regard to the number and spacing of voyages and numbers of ships and of captured men" (Arima 1976:34).

"Recollection of historic events within a century's span, or one generation removed from actual observation, has been illustrated by Rasmussen's recording, in 1923, of Netsilik memory of 19th century Arctic expeditions to their region" (Arima 1976:34).

The folk tales of the Winnebagos reveal much about the Wisconsin natural environment (habitat, fauna, flora, etc.). From this it was concluded that these Amerindians were long time residents of Wisconsin (probably since the thirteenth century), and not recent arrivals. The evidence suggests strong correlations between folk literature and historical records (Bigony 1982).

A study comparing Yukon native oral traditions and scientific research suggests correlations and convergences between these two distinctive intellectual traditions. The convergences deal with topics such as glacier movement, impounded lakes, climatic fluctuations, geography, geology, fauna, flora, prehistory, volcanic eruptions, and earthquakes (Cruikshank 1981).

[re: Yukon native traditions] "Many stories told by these women in the 1970s and 1980s were recorded in some form in Alaska in 1883 and in 1904 and at Dease Lake, British Columbia in 1915... While details may have changed in stories told in the 1980s, plots and motifs are easily recognizable" (Cruikshank 1988:202).

"...stories recorded a century ago, by visitors who believed they were hearing them from the last elders who knew them, are *still* told by Athapaskan and Tlingit elders in the 1990s" (Cruikshank 1991:18).

"The Abenakis have numerous historical traditions. The oldest one which I can date concerns an event which took place in 1637. There are some about the Iroquois wars in the latter half of the 17th century and others about the period of the French and Indian wars, the American Revolution, and down to the present" (Day 1972:107).

"[There is a theory] that after a sufficient lapse of time, say a century and a half, all oral tradition becomes pure fiction. There exist, however, numerous cases, from Great Britain to Africa, and from Polynesia to Iceland, to illustrate the veracity of tradition" (Dorson 1964:230). Dorson goes on to cite Pendergast and Meighan's (1959) article on Paiute folk traditions as historical fact and reproduces their conclusion that "the collective knowledge of the group seems to include an abbreviated but accurate history of events and peoples some 800 years in the past" (quoted in Dorson 1964:230).

Dorson (1972:205) discusses De Laguna's geological confirmation of native traditions in Alaska.

Eggan (1967:52) suggests that "the Hopi have not only remembered historical events with considerable accuracy, but have remembered *significant* happenings." He suggests that Lowie had been too harsh in his negative assessment of the historical value of Amerindian oral traditions.

Emmons (1911) relates the 1786 expedition by La Perouse to the Northwest Coast. "In 1886, one hundred years after this event, Cowee, the principal chief of the Auk qwan of the Tlingit people... told me the story of the first meeting of his ancestors with the white man, in Lituya Bay, where two boats of the strangers were upset and many of them were drowned. This narrative had been handed down by word of mouth for a century. These people possess no records nor had the chief who spoke no word of our tongue, ever heard of La Perouse from outside sources; so we can here authenticate by an exact date a most interesting piece of native history in detail, the truth of which is substantiated by the fact that La Perouse was the only one of the early navigators to visit this locality in a large ship and by the attending loss of life in the destruction of his two boats" (Emmons 1911:296-297).

[re: Sauteaux] "...in quantitative temporal terms retrospective genealogical information of this sort completely fades out in less than two centuries. One hundred and fifty years is the outside limit of any genuine historic past so far as the Berens River Indians are concerned. Events attributed to so distant a past that they cannot be connected with any known generation of human individuals are simply described as having taken place 'long ago.' Consequently we are plunged into a bottomless mythological epoch that lacks temporal guide posts of any conventional sort. As a matter of fact, it would be more accurate to assert that once we enter the mythological world of Sauteaux belief, temporal concepts actually lose most, if not all, chronological significance. One of the reasons for this is the fact that the most prominent anthropomorphic characters of mythology...are not only living beings, they are conceived as immortal. They were alive when the earth was young and they assisted the Indians then. They are still alive today and continue to aid mankind..." (Hallowell 1937:666-667).

"A search of the archival records of the 1820s reveals that one of the most cherished Dogrib legends, seemingly apocryphal, does in fact embody historical realities in the persons and event that it features" (Helm and Gillespie 1981:8).

"A number of testimonies by several middle-aged and elderly Dogribs delineated past circumstances, events, and persons that were congruent with the published Euroamerican historical record since the latter part of the eighteenth century... After preliminary attention to the demonstrable or potential historicity of this whole sector of Dogrib oral tradition, we address the question of the historicity of one Dogrib legend, as it can be validated from the Euroamerican documentary record" (Helm and Gillespie 1981:8-9).

"...the folk histories of peoples at this level of socio-cultural integration [i.e. Dogrib tribal or band society] are generally dismissed as neither having a sense of linear time nor embodying historical realities. Yet as independently verified by the Euroamerican record since about 1770, in one class of narratives within their oral tradition Dogribs evince a firm comprehension of both historical actualities and their

temporal succession. It seems evident that the sharp sense of 'time's arrow' in this sector of Dogrib oral tradition is, in fact, based in the swiftly successive effects of the impinging European presence on Dogrib experience. Features of the evolving European-driven impact on Dogrib experience serve as time and sequence markers. We leave as open the question whether in truly aboriginal times generations experienced changes sufficiently fast-paced and emergent one from the other to permit a developmental perspective in their folk history" (Helm and Gillespie 1981:9).

"With distinctive perspective and emphases, Dogrib oral tradition attests to a number of 'facts' of the period of hostilities between the Yellowknives and the Dogribs that have been preserved in the European record of the 1820s" (Helm and Gillespie 1981:14).

[Keesing compared a documentary account of an 1886 attack by the Solomon Island Kwaio with Kwaio oral traditions gathered in the 1960s] "The Kwaio accounts are surprisingly rich and accurate" (Keesing 1986:268).

[McClellan studied native oral accounts about Robert Campbell's travels in the Yukon and Alaska in 1843-1880] "There is remarkably little variation in the stories told by a given individual, but much variability in the versions given by the different informants... On some points the oral testimonies obviously corroborate Campbell's own record..." (McClellan 1970:109).

"No doubt there are some people whose historical knowledge includes only a rather inaccurate account of what happened one or two generations ago, but we believe that in some cases a thread of historical knowledge may span several centuries" (Meighan 1960:59).

"There are scattered examples in ethnographic literature of historical information transmitted for one hundred or two hundred years, or four to eight generations. Our Paiute example, checked as well as we were able by archaeological evidence, suggests to us that *some* primitives, *some* of the time, could transmit *some* historical information over a time span of about thirty generations (Meighan 1960:60).

[Meighan draws attention to a publication by De Laguna (1958)] "indicating native traditions in Alaska which have historical validity back over five hundred years to about A.D. 1400" (Meighan 1960:60).

"This article presents Athapaskan oral traditions that tell of volcanic eruptions at the beginning of time. It concludes that these stories recall a volcanic eruption in the upper White River basin of Alaska circa A.D. 720" (Moodie et al. 1992).

"Although the temporal limits to historical knowledge conveyed in oral traditions are

not known... there can be no doubt that the memory of past events can be transmitted by oral societies for periods of many hundreds of years" (Moodie et al. 1992:149-150). [Moodie et al. go on to cite Pendergast and Meighen's work among the Paiute who are alleged to have had a memory of events 800 years ago, and Laguna's work on the Tlingit who are alleged to have recalled geological processes].

"...two massive eruptions, scientifically dated to A.D. 20 and A.D. 720... Whatever the case, there can be little doubt that the ancestors of the Dene witnessed the second of these events and that memories of this terrifying experience, as well as of the population displacements that it occasioned, were transmitted orally from generation to generation for a period of over twelve hundred years" (Moodie et al. 1992:165).

"...Algonquian [oral] historical accounts have survived more than 300 years in recognizable form..." (Morantz 1984:173).

[Morantz (1984) compares documentary and oral traditions among the Cree relating to the seventeenth and eighteenth centuries] "From this listing of oral history accounts, it should be evident that the oral tradition is extremely rich in historic details, ones which harmonize well with the information from the archival records" (Morantz 1984:184).

"Ethnographic fieldwork carried out with Southern Paiute informants three decades ago provided support for the view that oral traditions contain historical fact transmitted over very considerable periods" (Pendergast 1988:321).

[Pendergast discusses Maya oral traditions which were confirmed by archaeological excavations in Belize and concludes that] "...oral tradition can indeed embody historically accurate information retained for a period of at least two centuries" (Pendergast 1988:323).

"The accuracy of historical traditions among primitive peoples is a subject of some dispute. Many scholars, like Lowie, consider such folk history to be no more than fairy tales. The present article supports the view that traditions often have a basis in historical fact. This paper reports the investigation of an historical tradition occurring among the Southern Paiute of southern Utah, concerning the Pueblid peoples who lived in the region from about A.D. 800 to 1150" (Pendergast and Meighan 1959:128).

"Although no single [Paiute] informant knows all of the information about the *Mukwitsch* [Pueblo people], the collective knowledge of the group seems to include an abbreviated but accurate history of events and peoples some 800 years in the past. The question arises as to whether some of this knowledge might not be due to Indian familiarity with local archaeology, or even to reading of books in these

days of sophisticated informants. We discount this source of error, however, because of the nature of the archaeology in this region and because our informants appear relatively uneducated in these matters" (Pendergast and Meighan 1959:131).

"Two other similar instances of historical continuity of Indian knowledge are known from the Southwest. A shorter span is represented by Gunnerson: Castaneda, one of Coronado's men, got an account in 1525 of an Indian invasion of the Southwest from the Plains. Bandelier collected a folktale about this same event in Santo Domingo in the 1880's, and Leslie White got a version of the same story in Santo Domingo in 1935. This represents transmission of an oral tradition about a particular historical happening over about four centuries" (Pendergast and Meighan 1959:131).

"We conclude from our investigation that traditional histories may preserve historical information for several hundred years with a relatively high degree of accuracy" (Pendergast and Meighan 1959:132).

[Lord Raglan (1960) disputes Pendergast and Meighan's (1959) claim that the Paiute recalled traditions about the Pueblos who lived 800 years earlier]

"One of the more popular stories that has been passed down by Passamaquoddy Indians is known as 'The Long Shot.' It was based on an actual incident of the American Revolution. In the 200 years of retelling the tale it has often been embellished with the colorful, rich, traditional aspects present in the oral folk history of this group" (Smith 1990:337).

[Sturtevant disputes Pendergast and Meighan's (1959) conclusion that the modern Paiute have 800-year-old traditions about the Pueblos] "...the effects of increased travel and modern contacts must not be overlooked... This evaluation of oral tradition does not consider the probable influence of Paiute knowledge of the culture of the Hopi gained through modern intertribal contacts, even though the Hopi are not for [sic] to the south in terms of modern transportation, and plainly are known to the Paiute and equated with the inhabitants of the prehistoric Pueblويد ruins, since both peoples are referred to by the same Paiute term" (Sturtevant 1966:32).

"The general aim of this study is to evaluate [sic] the accuracy of two Hopi traditions, represented by four testimonies gathered over the past seventy-five years, to determine the degree of accuracy that inheres in their accounts of the most remote historical event verifiable, the coming of the Spanish and the Pueblo Revolt of 1680. Specifically, the study evaluates three elements: a) the accuracy of the general information and causal pattern underlying the events portrayed in the testimony; b) the accuracy of the temporal sequence of events; and c) the accuracy of specific details" (Wiget 1982:183). [the author concludes that, even in certain details, there

is a high degree of accuracy; hence, a probability that the Hopi traditions are nearly three hundred years old]. "This is not to deny that such public records are 'distorted,' ...but to reassert the need to address ourselves to the metahistorical framework which supports these narratives. Then even the kind of information valued by Western historians can be found in native oral tradition..." (Wiget 1982:197).

6.20 CASE LAW: SECONDARY LITERATURE

"One body of testimony given credence in the [*Delgamuukw*] judgement comes from the writings of fur traders and other Europeans who were present in Gitksan and Wet'suwet'en territories during the early fur trade era. As a rule, *Delgamuukw* accepts the factual "accuracy" of this information... As a consequence, the judgement uncritically accepts information as "factually accurate" that is most likely to be the product of ethnocentric bias. Yet, while such information is often useful and sometimes critical, before accepting it as accurate, particularly when it concerns judgements about another culture or the specifics of its institutions, scholars have found it necessary to subject information to careful scrutiny in order to ascertain the precise nature of the ethnocentric biases it contains" (Asch 1992:226-227).

"[The *Delgamuukw* judgement] does strongly rely on the analysis of certain anthropologists, particularly with respect to verification of oral testimony (*ibid.* 47)..." (Asch 192:235).

"[Justice McEachern's] *evidence* comes from his comparison of written archival documents with the oral traditions presented by Gitksan and Wet'suwet'en hereditary chiefs. Ultimately, Justice McEachern also dismissed the oral traditions he heard from hereditary chiefs as inadequate to meet the demands of the court. In his *Reasons for Judgement*, he stated that 'much evidence must be discarded or discounted not because the witnesses are not decent, truthful persons but because their evidence fails to meet certain standards prescribed by law'... Later he added more specifically, 'I am unable to accept adaawk, kungax and oral traditions as reliable bases for detailed history but they could confirm findings based on other admissible evidence'... The thesis advanced in the following pages is that the court's decision to present and evaluate oral tradition as positivistic, literal evidence for 'history' is both ethnocentric and reductionist, undermining the complex nature of such testimony because it fails to address it on its own terms." (Cruikshank 1992:26).

"The judge [McEachern] agreed, after some consideration, that oral traditions presented by hereditary chiefs would be heard as actual evidence, and that these traditions were not limited by the hearsay rule... Yet, passing this hurdle seems to have catapulted oral tradition from a thicket of legal argument about admissibility

into an equally complex question of what constitutes 'historical evidence.' Ultimately, very little of the chief's testimony seems to have had any bearing on the final judgement which, when rendered, adhered to Euro-Canadian legal arguments and precedents with scant reference to much of the evidence submitted by the plaintiffs" (Cruikshank 1992:31).

"The judge's comment most clearly summarizing his approach to evidence is his pronouncement that certain documents 'speak for themselves' while others fail to do so. Those that do, in his view, are written documents, notably the records of the Hudson's Bay Company traders in the region during and after the 1820s. Those that do not, come from oral history" (Cruikshank 1992:31).

"Lawyers are familiar with written documents and so those documents may seem easy to understand because they pose questions, frame arguments, and draw conclusions in certain ways. Oral testimony--passed from one generation to another by word of mouth and embedded in different assumptions--is more easily dismissed as unreliable because it is subject to what the judge calls 'cultural values.' Notably, it is these very cultural values the judge criticizes anthropologists for advancing... yet he never addresses the hegemony of the cultural values operating so starkly in the courtroom" (Cruikshank 1992:32).

"[Judge McEachern] contrasts oral tradition with what he considers to be "good" evidence--the written reports of traders and Indian agents... The judge, however, goes directly to the documents because they so clearly 'speak for themselves.' He inverts the plaintiff's intentions by setting these documents as the *standard*, and criticizes the oral testimony when it does not confirm the written record" (Cruikshank 1992:35).

"Ultimately, the judge seems to be putting oral tradition, itself, on trial. He concludes that, compared with the written documents, oral traditions do not constitute historical evidence adequate to meet the requirements of the court, or 'literal truth'" (Cruikshank 1992:36-37).

"The Judge's evaluation of oral tradition stems from this idea that they can be treated as collections of words and compared with archival documents. While he acknowledges that oral traditions may have other meanings, he is primarily concerned with their 'reliability' and makes this his reference point. Their value is seen exclusively in terms of their contribution to a positivistic reconstruction of 'what really happened,' and that in turn has to be evaluated against other forms of 'more reliable' (i.e., documentary) evidence which the judge feels he is able to evaluate because of his capacity to read the 'self-evident'" (Cruikshank 1992:38).

"The 'plaintiffs,' Gitskan and Wet'suwet'en people, testified first and they were followed by professional anthropologists whose task it was to act as 'cultural

translators' of this evidence for the court and to present relevant evidence from their own research and that of other academics" (Culhane 1992:68).

"Crown lawyers initially attempted to have oral tradition designated as 'heresay' and thus not suitable for presentation as evidence. Chief Justice McEachern, in a landmark ruling during the course of the trial, exempted oral tradition from the hearsay rule and allowed testimony of the elders to proceed. However, after listening to these witnesses McEachern concluded in his Reasons for Judgement that little or no weight should be given to their evidence... (Culhane 1992:68).

"...they have an unwritten history which they believe is literally true both in its origins and in its details. I believe the plaintiffs have a romantic view of their history... (Reasons, 48)" (Chief Justice McEachern quoted in Culhane 1992:68-69).

"I am satisfied that the lay witnesses honestly believed everything they said was true and accurate. It was obvious to me, however, that very often they were recounting matters of faith which have become fact to them. If I do not accept their evidence it will seldom be because I think they are untruthful, but rather because I have a different view of what is fact and what is belief. (Reasons, 49)" (Chief Justice McEachern quoted in Culhane 1992:69).

"So far, most of the running against Chief Justice Allan McEachern's findings in *Delgamuukw v. B.C.* has been made by native people and anthropologists. Both groups have, quite rightly, objected to the denigration of native cultures, to the fact that oral testimony was first admitted then dismissed, and to the assertion that anthropologists were largely unreliable witnesses" (Fisher 1992:43).

"In *Delgamuukw v. B.C.* the naivety of the conclusions about history follow logically from the means by which they were reached. The judge's professed reliance on historians arises from his belief that they are 'largely collectors of archival, historical documents.' But if writing history involved ten steps, then the historian begins with reading the documents and evaluating them for internal consistency as well as establishing the context in which they were written. Individual documents must be compared to the rest of the written record and, where appropriate, non-written sources" (Fisher 1992:44).

"Also anachronistic is Chief Justice McEachern's belief that the documents are self-explanatory. He praises historians for providing 'much useful information with minimal editorial comment.' Their marvellous collections,' he adds, 'largely spoke for themselves.' ...the meaning of documents is not self-evident: it can only be understood in context. A document cannot be properly evaluated until we know who wrote it, for whom it was written, and, most importantly, why it was written. As McEachern inadvertently shows, it is not possible for judges, any more than historians, simply to allow figures from the past to speak for themselves" (Fisher

1992:46).

"Less obvious, perhaps, are the consequences of McEachern's complete faith in the documentary record as the primary, if not the only, reliable source of insight into the past. He harkens back to the old view that history, based on the study of written sources, is the appropriate discipline for understanding European cultures, whereas anthropology, based on the use of oral and material sources, is the discipline devoted to indigenous peoples. One of the many problems with this dichotomy is that exclusive reliance on written documents to interpret history confirms the hegemony of the colonizers. And that is part of the reason why historians have concluded that they must move beyond their traditional reliance on written words if they are ever to understand the indigenous past" (Fisher 1992:46-47).

"Trigger is one of the leading exponents of ethnohistory in Canada, and he is selectively quoted by McEachern on the limitations of oral history. The judge does not, however, quote Trigger, or any other historian, on the limitations of the written record" (Fisher 1992:47).

[re: *Delgamuukw v. British Columbia*] "The case represents a fundamental challenge to the traditional, Western notion of history and, by implication, to the established use of history in law... The author contends that, although many philosophical issues were openly discussed in *Delgamuukw*, the presiding judge ultimately failed to account for the problematic nature of history. In the end, the dominant culture merely asserted its historical vision over that proposed by the Gitskan and Wet'suwet'en" (Fortune 1993:80).

"In contemporary debate, however, history is used as much more than a mere source of understanding... The use that should be made of "history" appears to be an integral part of the controversies, both legal and political (if there is a difference), that surround relations between Canadian governments and Native peoples" (Fortune 1993:81).

"...Canadian courts have usually conceived of history as unproblematic... Philosophers of history and thoughtful historians have long recognized that making "history" is a problematic activity... The meaning of an historical exhibit, a piece of evidence linked somehow to the past, is not static; its meaning will change with the scholarly use to which it is put and, it is likely, with the intentions and values of the person employing it... Despite the currency of these debates, it is striking how courts accept the idea that the content and study of history is largely unproblematic" (Fortune 1993:83-84).

"The entry point into Canadian jurisprudence of an intentionally historical approach to aboriginal rights was the dissenting judgement of Hall J. in the *Calder* case. *Calder* involved a claim by the Nishga against the government of British Columbia

for a declaration that the aboriginal title to their ancient tribal territory had never been extinguished... Hall J. went on to rely substantially on the testimony of Dr. Wilson Duff, an anthropologist and recognized expert on Nishga civilization and culture, to find that the Nishga's aboriginal title had never been definitively extinguished. Modern historical scholarship had entered the fray of contemporary legal battles... [four years later the Supreme Court delivered a decision in *Kruger and Manuel v. The Queen*] The combined effect of these two decisions is the legal recognition of the potentially determinative effect of particular histories upon issues that involve aboriginal rights. Notably absent from these references to history, however, is any sustained discussion of how knowledge of the past is to be arrived at and how it is to be applied" (Fortune 1993:85-86).

"...in order for the courts to protect an aboriginal practice as a right, the practice must be found to constitute an integral part of a particular aboriginal culture. This finding will necessarily involve courts in an historical (or anthropological) analysis in which they compare modern practices...with traditional practices from the vantage point of the present. The question remains, however, how is this to be done; for in adopting history to serve the law, the Supreme Court has also adopted a multitude of philosophical problems" (Fortune 1993:87).

"In the *Calder* and *Sparrow* cases the Court stressed the centrality of historical evidence to disputes involving aboriginal interests, in *Bear Island* it missed a clear opportunity to examine more sensitively the significance of lending history a legal meaning. Put another way, *Bear Island* illustrates the judicial reluctance to acknowledge openly that a legal outcome may rest on a question of historical interpretation" (Fortune 1993:88).

"Given the 'unproblematic' view of history, such as that proposed by the Supreme Court, the identity of the person who testifies as to the content of a particular history is probably irrelevant, provided that the person is sufficiently expert and appears to speak from a vantage point above the fray of the particular dispute. Hence, in *Calder*, Hall J. placed an enormous weight on, and quoted at great length from, the testimony of the anthropologist Dr. Wilson Duff on the character of Nishga civilization before contact with European cultures. Similarly, in the *Sparrow* case, Dickson C.J. and La Forest J... relied on evidence provided by one Dr. Suttlers, who, in the words of the Court of Appeal, is possessed of 'particular qualifications in respect of the ethnography of the Coast Salish people.' Admittedly, some courts have been sensitive, although perhaps in a crude and one-sided way, with respect to the issue of bias among expert witnesses. Discounting the evidence of one geographer and historical researcher, Steele J. in *Bear Island* wrote that, '[he] stated that he had a strong commitment to the defendants and that it would be up to the court to separate his sympathies and biases from the use of his actual material.' However, until the Gitskan and Wet'suwet'en chose to bring their own interpretation of their own history before the Court, historical issues were largely the domain of

diploma-bearing experts" (Fortune 1993:91).

"The testimony of [Gitskan and Wet'suwet'en] people intimately connected to the history of these societies was designed to confront 'the distorting cultural biases' that inform many experts' views of Native history. Among the 'historical' conclusions that reflect a strong cultural bias touched on in the [plaintiffs'] opening address are: first, that traditional Native societies were static and properly speaking 'without history'; second, that history began when Native peoples began to adapt European technologies and practices to their own use; and, third, that 'the inexorable flow of history' has changed aboriginal peoples to the extent that making a claim for aboriginal rights in modern society, obsessed as it is by technology and urban living, is 'historically and legally outmoded.' By changing the identity of the historical interpreter, it is argued, the dichotomy between supposedly non-historical aboriginal societies and 'progressive' European societies will be undone" (Fortune 1993:92).

"In changing the human source of history from experts to Native people themselves, the Gitskan and Wet'suwet'en also changed the form in which history is normally brought before the courts. Although oral testimony and cross-examination are the essential means by which information is conveyed and tested within the Courts, experts who give evidence normally draw on a body of published works or explicate original documents in order to explain their conclusions and to reinforce their credibility. For Native societies, the oral format is itself the embodiment of their history; in addition, the telling of history is usually accompanied by what might be termed a 'public ceremony' with the attendant gravity that such a forum suggests" (Fortune 1993:92-93).

"By demanding that the law accord Native peoples' own histories the sort of respect accorded academic histories, the Gitskan and Wet'suwet'en not only afforded the courts the opportunity to consider a much expanded field of historical evidence and approaches to that evidence, they also opened the way for a radical reinvention of the law itself. A response to this challenge might be to ask how the court can possibly choose between competing versions of history. Yet that was the very question asked by the Gitskan and Wet'suwet'en. How does the court justify the preference of one type of historical understanding to another?" (Fortune 1993:96).

[re: judgement in *Delgamuukw v. The Queen* (1987), 40 D.L.R. (4th) with respect to an evidentiary dispute concerned with the admissibility and significance of Gitskan and Wet'suwet'en traditional oral histories] "These difficult issues leave their trace in McEachern C.J.'s judgement on the admissibility of oral history. The Chief Justice expressed concern about the content of the testimony. For example, when the plaintiffs sought to establish the origins of their respective houses by means of their [traditional oral histories], he found that the fact that these stories arose from a distinctive cultural practice--that is, they have gone through a 'sifting process'--lent them an 'enhanced trustworthiness.' McEachern C.J. also wrote,

however, that 'anything said to be historical' does not automatically become admissible because it is part of an oral tradition; rather, 'Historical facts sought to be adduced must be truly historical and not anecdotal.'" (Fortune 1993:100).

"Counsel for the plaintiffs put forward the views of E.H. Carr during argument to point out the active role that the historian plays in determining what is and what is not historical. The implications of Carr's observations, however, were avoided by McEachern C.J., who distinguished between his own use of historical evidence in a legal setting and the use made of it by academics. Whereas in the field of historical studies facts no less than interpretations of facts are subject to constant revision, in the legal world '[t]estimony...once admitted into evidence and interpreted by a court, becomes fixed inter-parties.'" (Fortune 1993:100).

[re: Western scientific tradition] "McEachern C.J. appeared to have the utmost faith that this tradition is able to regulate and purge itself of alien or erroneous intrusions: 'the witnesses, like many academics, were not bashful about stating their views about the qualifications or conclusions of their scientific colleagues thus alerting me to differences of opinion in the area in question.'" (Fortune 1993:107).

[re: quote from McEachern C.J.'s judgement in the *Delgamuukw* case] "The evidence does not disclose the beginnings of the Gitskan and Wet'suwet'en people. Many of them believe God gave this land to them at the beginning of time. While I have every respect for their beliefs, there is no evidence to support such a theory and much good reason to doubt it" (Fortune 1993:110).

"...without different conceptions of the past being allowed their day in court, this experience suggests, the law is likely to do no more than entrench its own historicity and all the inequities of the past that it tries so hard to escape... A radical challenge to the practice of history is certainly not without its own analytical problems. if one different historical vision is accepted and incorporated into law, on what basis can other less desirable, even repugnant, visions be excluded?" (Fortune 1993:114-115).

"In showing how unresolved philosophical problems permeate history as it is normally understood, I am arguing that Western notions of history cannot be preferred before a court of law on the ground that they deliver a more truthful account of the past. In some instances and for some purposes, it may be appropriate to prefer a 'scientific' examination of the past. In the case of aboriginal rights, however, an exclusive reliance on this tradition appears primarily to nullify any effective and meaningful content that these rights might have... the content of the law relies on a culturally specific conception of history. In order for law to respond to the needs of a different culture, it must create a forum for that culture's history to be told" (Fortune 1993:116-117).

"The appeal to common sense employed in the *Delgamuukw* decision creates a form of misrepresentation. This is particularly important in this case--indeed, in all cases involving Native issues--as special problems obtain because of the differences between Western documents and Native oral traditions. Judge McEachern's use of a Western notion of common sense facilitates the dismissal of Native oral testimony without a close examination of its epistemological status: it is simply argued, or rather asserted, that it does not conform to the canons of Western common sense and so need not be taken seriously. This is a tautology: Native oral traditions are not Western and cannot conform to Western constructions of common sense and therefore cannot be viewed objectively or usefully" (Miller 1992:56).

"Lastly, I wish to mention the historians. Generally speaking, I accept just about everything they put before me because they were largely collectors of archival, historical documents. In most cases they provided much useful information with minimal editorial comment. Their marvellous collections spoke for themselves" (Judge McEachern quoted in Miller 1992:57).

"Another example of [Judge McEachern's] confusion is his treatment of causal explanation within oral traditions. He is confused by the attribution of geological events to the actions of mythological beings, noting for example that 'it is difficult to equate a land slide to a Grizzly bear'...In an especially notable passage he affirms that 'the evidence does not disclose the beginnings of the Gitksan and Wet'suwet'en people. Many of them believe God gave this land to them at the beginning of time. While I have every respect for their beliefs, there is no evidence to support such a theory and much good evidence to doubt it'... The judge is simply unable to understand this sort of testimony and can only approach it in a literal-minded fashion. He seems unable to see that these accounts are not in conflict with scientific views regarding Ice Ages and migrations to New Worlds, but rather deal with separate dimensions of human experience. He does not comprehend that the oral histories are about how people define their own identities and about what their relations to other people, to other beings, and to their territories ought to be. He does not, in short, see that they are histories of relationships rather than simply histories of events" (Miller 1992:62-63).

"...the absence of a written tradition proved to be a major factor in McEachern's decision in *Delgamuukw v. the Queen*. The presence of an oral tradition proved to be a stumbling block vis-a-vis McEachern's ability to hear the Gitksan-Witsuwit'en evidence. The Gitksan and the Witsuwit'en have rich oral traditions which recount their origins and history; the recital of these traditions is very important for the transmission of rights to territory, particularly among the Gitksan... Therefore, it was important for the chiefs to present these traditions in court. At first the lawyers for the defendants (the province and the federal government) balked at hearing the kungax because they are not written traditions and, hence, could be construed in the Western legal tradition as 'hearsay.' After deliberation, the judge agreed to

make an exception in this exceptional trial and to hear testimony from the Gitksan-Witsuwit'en chiefs based on their perception of the history as recounted in their oral traditions. However, in his Reasons for Judgement, McEachern reverted to the position that oral traditions constitute hearsay, which is not admissible as evidence. In his view only written documents constitute history, and, by uncritically accepting early historical accounts as unbiased, McEachern was able to persuade himself (with the assistance of the counsel and the anthropologist for the defendants) that prior to White contact and the fur trade the Gitksan-Witsuwit'en were so disorganized as societies that they had no established system of rights to territory... Had he been able to appreciate the oral tradition which he listened to in court, he would have been aware that the Gitksan and Witsuwit'en are linked very specifically with their territory. Unfortunately, McEachern did not know how to interpret oral tradition; he said only that 'much of the plaintiffs' historical evidence is not literally true'... In agreeing to listen to the evidence from oral history and then discounting it, McEachern fell into the trap of viewing First Nations people as 'People Without History,' to use Wolf's term..." (Mills 1994:16-17).

"In his reasons for Judgement, McEachern also states: 'I am unable to accept [the Gitksan] adaawak, [the Witsuwit'en] kungax and oral traditions as reliable bases for detailed history but they could confirm findings based on other evidence'..." (Mills 1994:17).

"...of the historians [Judge McEachern] said: 'Generally speaking, I accept just about everything they put before me because they were largely collectors of archival, historical documents. In most cases they provided much useful information with minimal editorial comment. Their marvellous collections largely spoke for themselves...' (Mills 1994:18).

[re: assumptions underlying the *Delgamuukw* decision] "Written documents carry far more weight than oral traditions of the Gitksan and Wet'suwet'en. The cultural values and judgements about Aboriginal people expressed by early European observers are accepted uncritically" (Ridington 1992:19).

"When I come to consider events long past, I am driven to conclude, on all the evidence, that much of the plaintiffs' historical evidence is not literally true. For example, I do not accept the proposition that these peoples have been present on this land from the beginning of time" (Judge McEachern quoted in Ridington 1992:19).

[re: assessing oral history evidence] "The experience of the legal profession might be relevant here. In English law, when it is necessary to establish what happened on a particular occasion, reliance is placed almost exclusively on oral evidence. The law of evidence is an established field of law, and comprises rules that have been developed over many years. The concern is to establish facts, rather than the

witness's interpretation of those facts, and three general principles may be extracted from the procedures employed for this purpose.

- 1 According to the 'hearsay' rule, second-hand evidence is not admissible. English law stresses that evidence must be based solely on direct personal experience.
- 2 More significant, perhaps, for oral history, is that English law does not generally find acceptable evidence that has been written down after careful reflection. The principle is that the witness wherever possible should be present in person to be questioned, and that he should not produce and read a prepared statement (i.e., written evidence).
- 3 English law does not permit a witness to volunteer evidence; it can be extracted only by direct question and answer. Cross-examination (questioning of a witness by counsel for the party who did not call that witness) modifies a main danger of oral evidence--that a partisan witness can present the evidence in the way he wishes.

English law sets so much store by *oral* evidence partly for historical reasons, and partly because in many cases no documentary evidence can be found" (Seldon and Pappworth 1983:126-127).

"For the purpose of litigation involving complex legal issues, an agreed set of facts is ideal... anthropologists submit ethnographic evidence, which is primarily oral, as opposed to written; historians and political scientists submit the results of their research of documents, which are often not definitive in nature. Thus, several disciplines will conflict with the legal discipline, all in an effort to trace back aboriginal practice prior to Confederation. The results are often not as coherent and reliable as judges would prefer" (Storrow and Bryant 1992:182-183).

"The oral tradition inherent in the culture of so many aboriginal groups is generally foreign to Euro-Canadian cultures. Because our common law system is invariably based on English traditions, the admission of oral hearsay evidence creates a complicated legal issue for aboriginal rights litigation. What, then, are the confines of the law? Clearly not all oral history will be admitted as evidence at a trial. The oral history of a people based upon successive declarations of deceased persons may be given in evidence, for it could not otherwise by [sic] proven..." (Storrow and Bryant 1992:184).

"Included in the oral history hearsay evidence in *Delgamuukw* was evidence of origin and territory, historical evidence based upon declarations by deceased persons, evidence of more recent events to which there may be witnesses still living, and evidence of spiritual beliefs and values. Evidence admitted in *Delgamuukw* included oral declarations of reputation of ownership made by deceased persons on a question of an interest to land; and oral, historical, and cultural 'material' including treatises. With respect to evidence of territory, reputations about interest in land and boundaries is also admissible. However, the

following was held not to be admissible in *Delgamuukw*: declarations made by living or deceased persons about specific use made of territories claimed by aboriginal claimants; and declarations made by presently living persons either in the form of a pronouncement or of a reputation... Furthermore, there was a rejection of that oral history which is not said to be 'history.' A distinction was made by the Chief Justice between so-called facts and so-called beliefs or stories: 'Historical facts sought to be adduced must be truly historical and not anecdotal.' This distinction raises some difficult issues: should an orthodox legal view of history always transcend unorthodox, indigenous perspectives? If a rigid, non-native, common law approach to history is required by courts, how is evidence of aboriginal rights to be adduced? On the one hand, clearly some inconsistencies among the unorthodox evidence of an anecdotal nature must be disregarded as unreliable; on the other hand, efforts must be made by client, counsel, and judge to fashion and legitimize an aboriginal perspective within the law of evidence" (Storow and Bryant 1992:184-185).

"Aboriginal rights advocates should attempt to avoid forcing voluminous amounts of anecdotal history upon the court. Instead, one might organize the presentation of unorthodox historical evidence, or 'folklore,' and, where possible, separate such evidence from the presentation of what Chief Justice McEachern calls 'histories and declarations of interest.' To be sure, assisting the court in understanding such evidence can only assist one's case. At the same time, the courts, in our opinion, should try to avoid imposing the ordinary rules of evidence too strictly in aboriginal cases. The first inhabitants of Canada did not rely on written communications. Their history was passed down by oral means. Who is to say that an oral recording of history is less reliable than a written record?" (Storow and Bryant 1992:185).

"...oral history falls under the 'reputation about public or general rights' hearsay exception: A.F. Sheppard, *Evidence* (Toronto: Carswell Co., 1988)" (Storow and Bryant 1992:191).

"I have argued that because it is presented through a social relationship, the researcher cannot treat an oral testimony purely as a thing. Within the language of positivist science, this would mean that the testimony must therefore be less objective. However, since no accounts, oral or written, exist without a point of view by the teller, no listener, or researcher, can avoid judging how authoritative the account, and therefore the teller, seems to be. The canons of judgement have to include likelihood, reasonableness; yet apart from the possibility of falsification, in the Popperian sense, that is, of proving that a claim is false, it is an enigmatic feature of our experience that there is no innate representational difference between plausibility and fact, which is one reason why history-as-lived includes people acting on history-as-reported which can be false. In different legal systems, therefore, truth is accepted as what a group of people judge is the most likely story--and that verdict is then enforced, irrespective of the uncertainties and judgemental faults that may have contributed to it" (Tonkin 1992:114).

[Dora Wilson-Kenni, a Gitksan monitor and advisor in the *Delgamuukw* case, says:] "None of our languages are written; it's an oral history. And I guess this is one of the arguments that was used against us; that there's oral history and nothing is written. I guess it's fine if anthropologists get this history and write it down and then it can be recognized... To me it was a sad day when I heard that decision [by Judge McEachern]. And yet in a way I was happy because in a way it was a victory. A victory in a way that yes, our oral history was slammed around as we were witnesses on the witness stand, but we have it written in black and white now for anyone to see in those transcripts, in those 374 volumes of transcripts. In all of the commissioned evidence, all of those affidavits--it's there written, and that is something that the Gitksan and Wet'suwet'en people have done to further this fight for recognition" (Wilson-Kenni 1992:9-11).

6.21 CASE LAW: SELECTED JUDGEMENTS (In chronological order)

6.21.1 Case 1: Milirrpum and others v. Nabalco Pty Ltd and Commonwealth of Australia. Supreme Court of the Northern Territory. Blackburn J. April 27, 1971. ALR 1972-1973: pp. 65-192.

"Evidence was given by a number of aboriginal witnesses of statements made to them by their deceased ancestors relating to the rights of clans to particular areas of the subject land. It was argued for defendants that such evidence was inadmissible as being hearsay. It was further argued for the defendants that certain evidence given by anthropologists as to the social organization and 'laws' of the aborigines was inadmissible as hearsay, that the sources of knowledge of the facts upon which they based their opinions included what they had been told by the aborigines. It was further objected that the facts upon which these opinions were based were not apparent, and, further, that the witnesses tended to 'conceptualize' rather than to state the facts objectively. Held: (1) The field of the law of evidence known as 'traditional' evidence is a special field of the law of evidence and is not part of the common law of Australia. (2) The evidence of the aborigines was admissible under the exception to the hearsay rule known as reputation evidence, relating to declarations of deceased persons as to matters of public and general rights. (3) The hearsay rule did not apply so as to exclude the evidence given by an anthropologist in the form of a proposition of anthropology--a conclusion having significance in that field of discourse--and was admissible. It was fallacious to require an expert altogether to avoid the use of words expressing conceptions and it is his function as an expert witness to talk in terms of conceptions which are appropriate both to his field of knowledge and to the Court's understanding" (Summary on p. 66 in case cited *supra*).

"The plaintiffs sought to prove these matters by the oral evidence of two kinds of witnesses, namely aboriginals (each of whom was a member of one of the plaintiff clans), and expert witnesses, i.e., the two anthropologists, Professors Stanner and Berndt. The defendants objected on various grounds to much of this evidence. No difficulty arose in the reception of the oral testimony of the aboriginals as to their religious beliefs, their manner of life, their relationship to other aboriginals, their clan organization and so forth, provided, first, that the witness spoke from his own recollection and experience, and secondly, that he did not touch on the question of the clan relationship to particular land, or the rules relating thereto. No question of hearsay is at this stage involved; what is in question is only the personal experience and recollection of individuals" (Blackburn on pp. 86-91 of case cited *supra*).

"I take as a simple example...a piece of evidence which, in slightly varying forms, the aboriginal witnesses gave several times, and which the defendants contended to be inadmissible: 'My father [who is now dead] said to me this [referring to a particular piece of land] is land of the Rirratjingu.' ...The argument for the defendants was that this was inadmissible on the ground that it was hearsay and not admissible under any of the recognized exceptions to the hearsay rule. A well-known exception had of course to be considered. It is described by *Phipson*, 11th ed., para 972, in these words: 'Declarations made by deceased persons of competent knowledge,...are admissible in proof of ancient rights of a public or general nature. Evidence of this description is frequently included under the general term *reputation*... The grounds of admission are (1) *death*; (2) *necessity*, ancient facts being generally incapable of direct proof; and (3) the guarantee of truth afforded by the public nature of the rights, which tends to preclude individual bias and lessen the danger of mis-statements by exposing them to constant contradiction,' and again, at para 1277:-- "General reputation is admissible to prove the existence of the facts mentioned below, partly by reason of the difficulty of obtaining better evidence in such cases, and partly because 'the concurrence of many voices' among those most favourably situated for knowing, raises a reasonable presumption that the facts concurred in are true. *Public rights*: General reputation is admissible to prove public rights under the same limitations as hearsay on this subject.' ...The point is explained thus by *Wigmore* in section 1584:-- 'What is offered must be in effect a *reputation* not the mere *assertion of an individual*... But reputation includes and is often learned through the assertion of individuals; it is therefore constantly necessary to distinguish between (a) assertions involving mere individual credit and (b) assertions involving a community-reputation. The common form of question put to a reputation-witness was: What have you heard old men, now deceased, say as to the reputation on this subject?' ...The Solicitor-General pointed out that in no case did any

aboriginal say: 'My father told me that the reputation among the old men of the tribe was that the land was Rirratjingu land.' In my opinion it is clear that what is vital is the sense of the declaration, and not the precise words in which it is framed... In light of the evidence I have heard in this case, even apart from that which was contended to be inadmissible, and taking judicial notice of the notorious fact that Australian aboriginals have no writing and that therefore all matters of tribal custom and organization must be discussed and communicated orally, I have no difficulty in concluding that a statement in the form "My father told me that this was Rirratjingu land" is in substance a statement as to reputation... I reject, therefore, the defendants' objections to the admission of statements by the aboriginal witnesses as to what their deceased ancestors had said about the rights of the various clans to particular pieces of land, and the system of which these rights form a part. In my opinion, such evidence is admissible under the exception to the hearsay rule relating to the declarations of deceased persons as to matters of public and general rights (commonly known as reputation evidence)" (Blackburn on pp. 87-89 of case cited *supra*).

6.21.2 Case 2: Re Paulette et al. and Registrar of Titles (No. 2). Northwest Territories Supreme Court. Morrow, J. September 6, 1973. Dominion Law Reports 42 (3d): pp. 8-41.

"The Court may take judicial notice of the facts of history whether past or contemporaneous... and the Court is entitled to rely on its own historical knowledge and researches" (Morrow quoting Hall J., at p. 19 of the case cited *supra*).

"...In my treatment of the sometimes repititious [sic] statements of the many Indian witnesses as to what their ancestors did, I have considered them as coming within the exception to the hearsay rule relating to declarations of deceased persons about matters of public and general rights..." (Morrow at pp. 19-20 of the case cited *supra*).

6.21.3 Case 3: United States et al. v. State of Washington et al. United States District Court. Boldt, Senior District Judge. Feb. 12, 1974. Federal Supplement 384: pp. 312ff.

"The historical background information concerning the Yakima Nation, as shown by the written testimony...and oral testimony of Yakima tribal members educated in Yakima history and customs by tribal elders, was not controverted in the evidence and is found by the court to be reasonable and credible factual data regarding relevant aspects of Yakima Indian life at and

prior to treaty time, including the Yakima treaty council and the intentions and understandings of the Indian representatives there present" (Boldt on p. 379 in case cited *supra*).

6.21.4 Case 4: Regina v. Taylor and Williams. Ontario Court of Appeal. MacKinnon A.C.J.O., Brooke and Lacourciere JJ.A. October 16, 1981. Ontario Reports 34(2d): pp. 360-369.

"In order to determine cases on Indian or aboriginal rights, regard must be had to the history and oral traditions of the tribes concerned and the surrounding circumstances at the time of their entering into a treaty. While courts cannot possibly remedy all of what are now viewed as past wrongs, they can by not being remote and viewing past events in isolation, avoid new grievances... The oral tradition showed that the tribes who were parties to this treaty had taken bullfrogs for food since earliest memory and this right was exercised up until the present. The oral portion of the 1818 treaty as recorded in the minutes of the council meeting which both preceded and followed the signing of the Provisional Agreement preserved the historic right of these Indians to hunt and fish on Crown lands..." (summary on p. 360 of the case cited *supra*).

"Counsel for both parties to this appeal agreed that the minutes of this council meeting recorded the oral portion of the 1818 treaty and are as much a part of that treaty as the written articles of the Provisional Agreement" (MacKinnon on p. 362 of the case cited *supra*).

"Cases on Indian or aboriginal rights can never be determined in a vacuum. It is of importance to consider the history and oral traditions of the tribes concerned, and the surrounding circumstances at the time of the treaty, relied on by both parties, in determining the treaty's effect" (MacKinnon on p. 364 of the case cited *supra*).

"It is part of the oral tradition of the tribes that this right was not only recognized at the time of the treaty, but that they continued to exercise the right without interruption up until the present. The respondents' evidence as to the oral traditions of the Indian tribes concerned was accepted by the trial judge and was not disputed by the Crown" (MacKinnon on p. 365 of the case cited *supra*).

"In my view, all the principles recited lead to the conclusion that the terms of the treaty, which include the oral terms recorded in the minutes, preserve the historic right of these Indians to hunt and fish on Crown lands... Once it is accepted that the minutes of the council meeting between the representative

of the Crown on the one hand and the Indian chiefs on the other is part of the treaty, it cannot be successfully argued that Treaty No. 20 is 'silent' on the question of the right to hunt and fish" (MacKinnon on pp. 367-368 of the case cited *supra*).

6.21.5 Case 5: Attorney-General for Ontario v. Bear Island Foundation et al. Ontario High Court of Justice. Steele J. December 11, 1984. Dominion Law Reports 15 (4th): pp. 321-458.

"Indian oral history is admissible in aboriginal land-claim cases where their history was never recorded in writing. However, this does not detract from the basic principle that the court should always be given the best evidence. The court has an obligation, first, to weigh the evidence and consider what evidence is the best evidence and, second, if such best evidence is not introduced, to consider making an adverse finding against the person who has failed to produce it" (Steele on p. 336 of case cited *supra*).

"Like other evidence, oral evidence is not always accurate. For example, the evidence relating to the names and dates of the chiefs of the defendants that were given to Speck in 1913, by Dokis in 1888 and by Chief Potts at trial do not all agree... Furthermore, Dr. Rogers, in his study of the Crane Indians, stated that present-day bands, whom he believes can be proven to be descendants from a common ancestor, deny any connection between themselves. Oral history may also be contradicted by available factual records. The same is true of the Temagami area. This shows that while oral evidence must be weighed like other evidence, consideration must be given to the faultiness of human memory" (Steele on p. 336 of case cited *supra*).

"I feel obliged to comment on how disappointed I was that there was so little evidence given by Indians themselves. Chief Potts was the principal Indian witness to give oral history. There were a few other Indians who gave minimal amounts of oral history, some of which conflicted with that given by Chief Potts. Furthermore, they did so only as a condition of my allowing hearsay evidence to be introduced by Mr. Conway with respect to alleged Iroquois battle sites... In a matter of this importance I expected that all of the older people in the Temagami Band who were able to give useful evidence would have been called. Throughout the trial I had an uncomfortable feeling that the defendants, in presenting their case, did not want the evidence of the Indians themselves to be given, except through the mouth of Chief Potts. Chief Potts stated that the oldest person best able to recount oral tradition was George Peshabo. Mr. Peshabo did not give evidence and no reason for this was given. Chief Potts also stated that oral history was normally handed down from father to son. The two sons of Donald McKenzie were not called

to give evidence even though Donald McKenzie was one of the principal sources of Chief Potts' evidence. I also note that practically all of the evidence of place names, canoe routes, folklore sites, rock art, settlements and canoe styles came from non-Indians rather than from Chief Potts or any other Indian. The acknowledged 'old people' who knew the most about the oral history were inexplicably not called to give any such evidence. Unlike many other Indian land-claim cases, the present case has not been presented through a concurrence of many voices with respect to the oral tradition of the band. There has really been only one voice, that of Chief Potts. Obviously, even in the context of oral history, the best evidence rule permits the court to seriously consider the weight to be given to the evidence of Chief Potts under these circumstances" (Steele on p. 337 of case cited *supra*).

"Chief Potts acknowledged that he knew little about the band's history until the late 1960s, when he read Dr. Frank Speck's memoirs of 1913... He then commenced asking questions of the older people for the first time and started to learn the history of the band. He first discussed the land claim with his father in 1970 or 1972. His was obviously not oral tradition in the normal sense" (Steele on p. 338 of case cited *supra*).

"If a white person, or non-Indian, gives evidence as to the oral tradition, this testimony is admissible generally only where the declarants are dead. In the present case, Mr. Conway, Mr. Morrison and Mr. Macdonald gave evidence as to what they had been told by Indians. In many cases, the supplier of such information is still alive and in other cases is not identified. This must be borne in mind in determining the credibility and weight of the evidence. I make this comment notwithstanding that to a degree all three of these gentlemen are experts in their own particular fields" (Steele on p. 338 of case cited *supra*).

"Where the facts relating to the current social organization, language and general way of life of a band, the antiquity and lineal descent of the claimants to membership in a band, and the definition of the present boundaries of occupation of a band are in dispute, then the findings of fact must be based on weighty evidence from a number of Indians who can speak to these matters from their own knowledge and experience. The facts concerning these matters should be supported by historical, anthropological or other expert evidence, but the defendants should not rely entirely on non-Indian historical, anthropological or other evidence when Indian evidence is available" (Steele on pp. 338-339 of case cited *supra*).

"Dr. Rogers is an ethnologist and any opinions that he may formulate based on information received from living Indians as to their oral traditions are

admissible in court" (Steele on p. 339 of case cited *supra*).

"Ancient documents are producible as evidence about occurrences, provided such documents are of a general public nature... I am only aware of one document in this category that was withheld on the ground of privilege, that being a tape-recording of a conversation with Donald McKenzie, now deceased, as to the oral traditions of the band... Such a tape-recording would have been admissible if privilege had not been claimed. Chief Potts gave evidence with respect to much of what was likely in the tape, but I place less weight on that evidence than I would have if the original tape had been introduced. Obviously, any statements made subsequent to the commencement of litigation should be considered only in that light" (Steele on p. 339 of case cited *supra*).

"In summary, I believe that a small, dedicated and well-meaning group of white people, in order to meet the aspirations of the current Indian defendants, has pieced together a history from written documents, archaeology and analogy to other bands, and then added to that history a study of physical features and other items, together with limited pieces of oral tradition. Even the name Teme-agama Anishnabay was not used in any printed form or record of the band or registered band until 1976. This leads me to doubt the credibility of the oral evidence introduced, and affects the weight to be given to the evidence of non-Indian witnesses" (Steele on p. 340 of case cited *supra*).

"The great bulk of his [i.e., Craig Macdonald's] evidence was hearsay and much of it was obtained from Donald MacKenzie who died after the commencement of this action but before the trial. Mr. MacKenzie was one of the old people of the defendants and it is clear that an electronic tape-recording was made of interviews with him. These tapes were not produced by the defendants because they claimed privilege in them. It would appear that Macdonald's evidence is not the best evidence available and therefore I discount his hearsay evidence to a great extent" (Steele on p. 358 of case cited *supra*).

"Thor Conway, a regional archaeologist and anthropologist employed by the Ontario government, gave extensive evidence about the Land Claim Area. I found Mr. Conway to be the most biased and unreliable witness called at the trial. He exaggerated his archaeological knowledge of the area. He gave me the impression that he would accept as correct any hearsay told him by a living Indian, regardless of whether or not it contradicted prior recorded statements by Indians to Dr. Speck in 1913, or to others. He would then endeavour to subjectively interpret and distort his own findings to confirm what he was told" (Steele on pp. 358-359 of case cited *supra*).

"Dr. Noble's evidence is that pictographs have not yet been identified in any time frame. In addition, Mr. Conway's evidence itself was conflicting as to the uniqueness of pictographs to the Temagami area. He stated that the upright canoe pictograph was distinctive to the area, but he gave more examples of upright canoes from outside the area than from inside it. His evidence about other unique pictographs was not supported archaeologically. The oral Indian evidence is conflicting as to who made the pictographs. Some Indian witnesses believe they were made by the Iroquois. Others say they were made by their ancestors. Two Indians who were called made no reference to rock art having any relation to folklore. Michael Paul stated that he had been told by his father that his people had painted some of the pictographs and that, even now, some old people know the meaning of them but will not tell. The only 'old person' called was William Twain and he gave no evidence relating to rock art. Mr. Conway, in an article written in 1974, stated that he had been told that rock art was made by the Iroquois during the Iroquois Wars. Now he says that they were made by Algonquins. However, he also stated that the oral traditions of the defendants had not changed from 1913 to today because even now Chief Potts believed them to be painted by the Iroquois, while others believed them to be malevolent to the Iroquois. Chief Potts' evidence was that all except one had been painted by his own people. Alex Misabi said they were made by the Iroquois. Michael Paul, Sr. said some were made by each group. I find that the pictographs have not been proven to show any continuity between the defendants and whoever made them, or that any conclusions can be drawn from them" (Steele on pp. 366-367 of case cited *supra*).

"In an article written by Mr. Conway, based on information obtained after the commencement of the trial, he concluded that the present oral traditions of the tribe concerning fights with the Iroquois are proven by archaeological findings, and that those fights took place in the latter half of the 17th century. His article is written in an almost fictional manner, making it difficult to distinguish between the oral history and his own imagination... The oral history given by William Twain, Michael Paul, Sr., Chief Potts and Alex Misabi confirmed some of the incidents, although not universally, and not without some conflicting versions of them. The oral evidence indicated that the incidents were a long time ago. I find that in most cases the memory or knowledge span of the Indian witnesses was only three generations" (Steele on p. 367 of case cited *supra*).

"Except where I otherwise expressly state, I accept Dr. Speck's *Memoir No. 70* as being the best evidence as to family groups. His information was obtained long before the present controversy arose and was much closer in time to many events. It was obtained [in 1913] over a two-week period of study of the Temagami people, the study being a part of a much larger study

of people in the area. It is not tainted with the partisanship shown by many of the witnesses at this trial. Dr. Speck indicated that he had spoken to practically all of the heads of families of the Temagami Band at Bear Island, and obtained from them information concerning what they claimed to be their family hunting territories" (Steele on p. 375 of case cited *supra*).

6.21.6 Case 6: Uukw (Tait) et al. v. R. in Right of British Columbia and Attorney General of Canada. Supreme Court. McEachern C.J.S.C. July 24, 1987. British Columbia Law Reports 15 (2nd): pp. 326-345.

"In an action for aboriginal title, counsel were invited to make submissions on the admissibility of hearsay evidence. Hearsay was defined for the purposes of the case as included collections of information or belief, passed on orally from generation to generation, which were also tendered as proof of the truth of the facts stated. Included in such evidence was evidence of origin, evidence of territory, historical evidence based upon declarations by deceased persons, evidence of more recent events to which there may be witnesses still living, and evidence of spiritual beliefs and values. Overhanging all aspects of the hearsay rule in the case were the *adaawx* of the various Houses, an *adaawx* being the important information of a House, which is orally passed on from generation to generation, including spiritual or mythological history and actual facts. What hearsay was part of an *adaawx* and what was just a story would be difficult to determine. After delivering draft reasons and having received further submissions, further reasons were given. Held - Oral history admissible as exception to hearsay rule. The relevant oral history of a people can be given in evidence under an exception to the hearsay rule, for it could not otherwise be proven. Not all of the evidence would be admissible, but questionable evidence would be received subject to a later determination of admissibility" (Summary at p. 326 of the case cited *supra*).

"Much important evidence in this massive action for aboriginal title is admissible, if at all, only under an exception to the hearsay rule. This is because the plaintiffs seek to establish by declarations made by deceased persons not just many details of their history, laws, traditions and cultures but, in addition, the antiquity or 'time depth' of these important matters" (McEachern at p. 328 of the case cited *supra*).

"There is little doubt that the oral history of a people based upon successive declarations of deceased persons may be given in evidence, as a matter of admissibility, for it could not otherwise be proven... When there is no written history, such evidence obviously satisfies the test of necessity. In my view, admissibility does not depend upon the particular historical events being a

part of an *adaawx* although such could lend weight to the evidence because of its enhanced trustworthiness resulting from what has been called the sifting process. But inclusion in an *adaawx* is not an open door to the admissibility of anything said to be historical. Historical facts sought to be adduced must truly be historical and not anecdotal. Thus the destruction of a village or the migration of a House or the battles of the warrior *Suuwiigos* may be proven while the account of the enraged grizzly bear or the giant in the trees would not be admissible, at least not under this head [i.e. 'Evidence of origin']" (McEachern at p. 329 and again at p. 340 of the case cited *supra*).

"I have no doubt the relevant oral history of a people can be given in evidence under an exception to the hearsay rule for it could not otherwise be proven" (McEachern at p. 331 of the case cited *supra*)

"In this case...I am exploring unsurveyed legal ground and there have been very few cases where the plaintiff has assumed the burden of proving both the existence of an ancient culture and civilization and its antiquity. And while maintaining the law, I must struggle to avoid slavishly following authority decided in an entirely different context. As I said in my earlier reasons, I prefer to lean towards admissibility [of oral history]" (McEachern at p. 333 of the case cited *supra*).

"...I was particularly struck by the...extensive anthropological and other expert testimony which counsel propose to adduce. There may be independent corroboration or confirmation of the details which the witnesses wish to relate in their evidence which may tilt the scales away from anecdote towards history... in most cases it will be necessary to hear evidence in order to determine whether it is a general historical fact or a particular or anecdotal fact. As I said earlier, it may be necessary to decide these questions somewhat arbitrarily, doing the best I can..." (McEachern at p. 334 of the case cited *supra*).

"I define as hearsay for the purposes of this case not just conventional out-of-court statements tendered to prove the truth of the facts stated, but also collections of information or belief passed on orally from generation to generation which are also tendered as proof of the truth of the facts stated" (McEachern at p. 334 of the case cited *supra*).

"...plaintiffs' counsel have adduced much interesting evidence about the legends, histories and genealogy of the *Gitksan* people, its clans and Houses, much of which is clearly inadmissible except possibly as an exception to the hearsay rule" (McEachern at p. 335 of the case cited *supra*).

"I reject the suggestion, not seriously advanced, that items must be regarded

as part of an *adaawx* if the witness affirms such is the case. A bootstraps approach to admissibility is contrary to all principle" (McEachern at p. 337 of the case cited *supra*).

"The hallmark of an *adaawx* is that it is told and retold, sometimes infrequently, on formal occasions usually at feasts under traditions that require a dissenter to object then and there or not at all" (McEachern at p. 338 of the case cited *supra*).

"...I must lean towards admissibility wherever authority permits me to do so. While the primary function of a trial judge is to hearken to the evidence...I reject the notion that a trial judge must be a sponge soaking up everything that is tendered in evidence. There are limits to how much evidence a party may adduce, and a trial must always be confined within reasonable limits" (McEachern at p. 339 of the case cited *supra*).

"...there will undoubtedly be many grey areas. Such questions must be resolved on policy grounds by the judge deciding as best he can whether a fact may be fact of history or something less than that" (McEachern at p. 340 of the case cited *supra*).

"...a trial judge has no discretion to admit and act on any items of legally inadmissible evidence... In my view I have no discretion to receive evidence of events, historical or otherwise, and whether within an *adaawx* or not, which occurred within the memory of persons still alive... Without more, I cannot conclude that such events cannot be proven by personal knowledge... the evidence cannot be given without the plaintiff first establishing that first-hand evidence does not exist... My conclusion, for the time being therefore, is that matters of recent history or other events must be proven by persons with personal knowledge" (McEachern at pp. 343-344 of the case cited *supra*).

6.21.7 Case 7: Attorney-General for Ontario v. Bear Island Foundation et al. Ontario Court of Appeal. Zuber, Cory and Finlayson, J.J.A. February 27, 1989. Ontario Appeal Cases 32: pp. 66-80.

"As to the history of the band, the trial judge expressed disappointment that so little of the evidence was given by band members. Chief Potts was the principal Indian witness to give oral history and his testimony was not oral history in the traditional sense. His own family did not arrive in the Land Claim Area until 1901, and his principal source of information was not his parents and grandparents. Instead, he gave evidence that was the result of his research and that which he had learned from other members of the band

who were not called as witnesses. His evidence was not, in any sense, the best evidence available and there were available, older band members who could recount oral traditions. Chief Potts' testimony was not similar in quality to the type presented in other cases where oral history has been admitted" (Zuber, Cory and Finlayson on p. 69 of the case cited *supra*).

6.21.8 Case 8: Attorney General of Quebec v. Régent Sioui et al. Supreme Court of Canada. Dickson C.J., and Lamer, Wilson, La Forest, L'Heureux-Dubé, Sopinka, Gonthier, Cory and McLachlin JJ. May 24, 1990. S.C.R. (1990) 1:1025ff.

"As Chief Justice said [in *Simon v. The Queen* (1985) 2 S.C.R.], treaties and statutes relating to Indians should be liberally construed and uncertainties resolved in favour of the Indians (at p. 410)... we should adopt a broad and generous interpretation of what constitutes a treaty" (Lamer on p. 1035 of the case cited *supra*).

"The historical context, which has been used to demonstrate the existence of the treaty, may equally assist us in interpreting the extent of the rights contained in it. As MacKinnon J.A. said [in *R. v. Taylor and Williams* (1981), 62 C.C.C. (2d)] at p. 232: 'Cases on Indian or aboriginal rights can never be determined in a vacuum. It is of importance to consider the history and oral traditions of the tribes concerned, and the surrounding circumstances at the time of the treaty, relied on by both parties, in determining the treaty's effect'" (Lamer on p. 1068 of the case cited *supra*).

6.21.9 Case 9: Delgamuukw (Muldoe) et al. v. R. in Right of British Columbia and Attorney General of Canada. British Columbia Supreme Court. McEachern C.J.B.C. March 8, 1991. Western Weekly Reports (1991) 3: pp. 97ff.

"Since the basic facts of the plaintiffs' histories could not be proven through documents or by the personal knowledge of living witnesses, the plaintiffs found it necessary to prove parts of their case indirectly by a number of different means which necessarily involved the reputation exception to the hearsay rule. To prove the connection between pre-contact and present Gitksan and Wet'suwet'en societies, the plaintiffs led evidence of their languages, genealogies, customs and oral histories. They alleged that their case did not depend upon the literal accuracy of the oral histories, but rather that the oral histories supported and confirmed the theories or findings of their expert scientific evidence from the fields of archaeology, linguistics, anthropology, history and many other disciplines... Out of court declarations

relating to the ownership or use of land by living persons were not admissible, but declarations made by deceased persons as to a reputation of ownership or use were admissible. Given the length of the trial and the fact that many witnesses were giving evidence in their second language or through interpreters, however, all *viva voce* evidence that failed to comply strictly with this reputation ruling could not be disregarded. This also applied to proof of genealogy, which was also incapable of proof by personal knowledge. The totality of the evidence raised doubts about the reliability of the *adaawk* and *kungax* (unwritten, sacred statements of the history, legends, laws, rituals and traditional territories of a House) as evidence of detailed history, or land ownership, use or occupation. While admissible out of necessity as exceptions to the hearsay rule, they could not be treated as direct evidence of facts in issue except in a few cases where they could constitute confirmatory proof of early presence in the territory" (Summary on pp. 98-99 of the case cited *supra*).

"[the Plaintiffs] say their oral histories have other uses and that their case does not depend merely upon the literal accuracy of these histories to establish a connection with past societies. The oral histories are also relied upon by social and other scientists as evidence supporting and confirming their theories or findings which indicate a genuine connection between present and past aboriginals and, in this way, the plaintiffs seek to tie the two societies together. These sciences include archaeology, linguistics, anthropology, history and many other disciplines" (McEachern on p. 163 of the case cited *supra*).

"There is another dimension to the oral histories relied upon by the plaintiffs and that is the *Gitksan adaawk* and the *Wet'suwet'en kungax*. In one sense these *adaawk* and *kungax* are a special kind of oral history, but the plaintiffs say they are more than that. They are a sacred 'official' litany, or history, or recital of the most important laws, history, traditions and traditional territory of a House which is repeated, performed and authenticated at important feasts. It is an official statement of the sacred culture of a House. As it is said to contain a statement or description of the territory of a House, the plaintiffs contend that it constitutes an admissible declaration of title and an exception to the hearsay rule. There is a distinction to be kept in mind between an *adaawk*, which is the 'official' or sacred statement of the history, law, customs, and traditional territory of a house, with what Mrs. MacKenzie called the '*antimahlaswx*' or collection of stories or folklore of a house. I have great difficulty, as did many witnesses, separating histories and declarations of aboriginal interests from stories. At an early stage of the trial I expressed the hope that I could make a convenient but simplistic distinction between what European-based culture would call mythology and 'real' matters... I have concluded that it would be overly simplistic to attempt such a

distinction, and I must accordingly reject mythology as a valid distinction between what is and what is not part of an adaawk or kungax. This distinction between the authenticity of an adaawk and matters of folklore has not, so far as I can ascertain, been recognized or applied by any of the scientists who gave evidence at trial." (McEachern on p. 164 of the case cited *supra*).

"As I have said, many social and other scientists whose evidence was adduced by the plaintiffs have relied in part upon oral histories, adaawk and kungax to buttress the sparse evidence which exists about the social order and identity of the occupants of the territory prior to and in the early period after contact. Again, I have found this kind of evidence admissible but subject to considerations of weight" (McEachern on p. 165 of the case cited *supra*).

"In an earlier judgement in this case [i.e., Uukw (Tait) et al. v. R.] ...I expressed some views I then entertained about the admissibility of out of court declarations of deceased persons about the ownership and use of the territory. I admitted most of such evidence, subject to objection and weight... Subject to what follows in this judgement, I see no reason to change the views I stated in 1987. I remain persuaded that oral declarations of a reputation of ownership made by deceased persons, whether included in an adaawk or otherwise, is admissible on a question of an interest related to land. But I would be going outside the confines of the law if I were to accept, as proof of ownership or title, evidence of statements: (a) made or imputed to deceased persons who purported to pronounce upon this question of title or ownership instead of giving evidence of a reputation of ownership; or (b) made by presently living persons either in the form of a pronouncement or of a reputation" (McEachern on p. 165 of the case cited *supra*).

"...I have heard the evidence of numerous scientists who, for the purpose of their disciplines, have relied to some extent upon oral 'material' (a neutral word) even though some of it has now been reduced to writing by anthropologists and others, which adds still another dimension of difficulty to the weighing process" (McEachern on p. 166 of the case cited *supra*).

"...Dr. Bruce Trigger in *Time and Traditions, Essays in Archaeological Interpretation*, says, at p. 126 [sic]: 'Another source of information about the past is the stories living peoples tell about their own history. This is often referred to as oral tradition (Vansina 1965:1-18; McCail 1964:37-61). Such traditions frequently reflect contemporary social and political conditions as much as they do historical reality and even in cultures where there is a strong desire to preserve their integrity, such stories unconsciously may be reworked from generation to generation... Hence it is no wonder that many

anthropologists doubt the historical reliability of all oral traditions... The scientific study of oral traditions is obviously an exacting task and requires careful evaluation of the reliability of sources, the identification of stereotyped motifs that may distort historical evidence, the checking of the stories told by one group against comparable information supplied by others, and, finally, the checking of these stories against independent sources of information such as archaeological evidence. *Used in this way, oral traditions may supply valuable information about the not too distant past. Used uncritically, however, they can be a source of much confusion and misunderstanding in prehistoric studies.*' [McEachern goes on to quote from another unidentified source, erroneously attributed to the same work by Trigger] '...The recording of oral traditions as well may be suspect. The few committed to writing in eastern Canada prior to the late nineteenth century were done in an extremely cursory fashion and from poorly identified sources... At least some of these oral traditions appear to have been heavily influenced by White historical narratives, missionary propaganda, and even anthropological publications... They also frequently reflect knowledge of periods later than those to which they are alleged to refer. In general, some kind of independent verification is required before such traditions can be accepted as accurate historical accounts'" (McEachern on pp. 166-167 of the case cited *supra*).

"[the plaintiffs] have an unwritten history which they believe is literally true both in its origins and in its details. I believe the plaintiffs have a romantic view of their history which leads them to believe their remote ancestors were always in specific parts of the territory, in perfect harmony with natural forces, actually doing what the plaintiffs remember their immediate ancestors were doing in the early years of this century... When I come to consider events long past, I am driven to conclude, on all the evidence, that much of the plaintiffs' historical evidence is not literally true. For example, I do not accept the proposition that these peoples have been present on this land from the beginning of time. Serious questions arise about many of the matters about which the witnesses have testified and I must assess the totality of the evidence in accordance with legal, not cultural, principles. I am satisfied that the lay witnesses honestly believed everything they said was true and accurate. It was obvious to me, however, that very often they were recounting matters of faith which have become fact to them. If I do not accept their evidence, it will seldom be because I think they are untruthful, but rather because I have a different view of what is fact and what is belief. As with so many other cases, this one sorts itself out in such a way that the legal issues fall to be decided not on the validity of the plaintiffs' beliefs but rather by the application of legal principles to what they actually say within the totality of all the evidence. I do not find it necessary to reflect in any way upon the bona fides of the plaintiffs. This does not mean that I accept all of

their evidence. As I shall endeavour to explain, much evidence must be discarded or discounted, not because the witnesses are not decent, truthful persons but because their evidence fails to meet certain standards prescribed by law. For example, the fact that the plaintiffs' claim has been so much discussed for so many years, and the further fact that so much of the evidence was assembled communally in anticipation of litigation, or even during this litigation, is a fact which must be taken into account" (McEachern on pp. 168-169 of the case cited *supra*).

"Lastly, I wish to mention the historians. Generally speaking, I accept just about everything they put before me because they were largely collectors of archival, historical documents. In most cases they provided much useful information with minimal editorial comment. Their marvellous collections largely spoke for themselves. Each side was able to point out omissions in the collections advanced on behalf of others but nothing turns on that" (McEachern on p. 172 of the case cited *supra*).

[In *Kruger v. R.* (1978) Dickson J. said] "Claims to aboriginal title are woven with history, legend, politics and moral obligations. If the claim of any Band in respect of any particular land is to be decided as a justiciable issue and not a political issue, it should be so considered on the facts pertinent to that Band and to that land, and not on any global basis" (McEachern on p. 174 of the case cited *supra*).

[In *Simon v. R.* (1985) Dickson J. said] "that the oral history of a people based upon successive declarations of deceased persons may be given in evidence as a matter of admissibility, for it could not otherwise be proven" (McEachern on p. 174 of the case cited *supra*).

"It is obvious that the basic facts of the plaintiffs' histories cannot be proven through documents or by the personal knowledge of living witnesses. Accordingly, the plaintiffs found it necessary to prove parts of their case indirectly by a number of different means, which necessarily involved the reputation exception to the hearsay rule of evidence" (McEachern on p. 174 of the case cited *supra*).

"[In a previous judgement] I concluded that out of court declarations relating to the ownership or use of land by living persons are not admissible, but declarations made by deceased persons in proper circumstances giving rise to a reputation of ownership or use could be admissible. At p. 343 of my first reasons I said about reputation evidence: 'I mention this only to illustrate the difficulty of the matter and it may be that the only proper question to ask in chief about these matters is along the lines suggested by Wigmore, para. 1584, 'What have you heard old men, now deceased, say as to the

reputation on this subject.' It is not of course necessary to use that precise language, as the law does not favour magic words, but it is important to remember that the question is not, 'What is the reputation in the community?' as such a reputation may not be based on grounds (declarations by deceased persons) which alone make the evidence admissible.' With respect, it now appears to me that this is impossible to apply strictly in the course of a long trial, especially with witnesses who are giving evidence in their second language or through interpreters... I have concluded with some hesitation that I should not disregard all the viva voce evidence which fails to comply strictly with the form of my reputation ruling, but in fairness I cannot amend the substantive requirements of law" (McEachern on pp. 175-176 of the case cited *supra*).

"As to historical facts, there was evidence of dramatic events such as the rock slide at Hagwilget Canyon, which I call general history, as well as personal history. By the latter I mean, for example, what the deceased grandparent of a witness said about his life, or the life of his grandparents or other unidentified elders in relation to a relevant fact such as the tradition or culture of a House or people or the use and occupation of land. These matters, it seems to me, must, as a matter of necessity, be equivalent to a declaration of land use, and must be admissible under the rubric of reputation evidence, or discounted reputation evidence. This kind of evidence must, of course, be weighed and tested for trustworthiness. In addition, an important distinction must be recognized between what a deceased elder said he or his elders did, and what they believed. Only the former can have value as evidence" (McEachern on p. 176 of the case cited *supra*).

"There is also a distinct difference between folklore ('antimahlaswx' in Gitksan) and their laws and traditions. Both are passed on orally from generation to generation, often it seems, by grandmothers, who tell these things to their grandchildren often as 'an everyday thing.' ...In an earlier ruling I attempted to draw a distinction between folklore and traditions, laws and histories. Of these, folklore is clearly not admissible as proof of the facts stated; the others may be admissible, subject to appropriate deductions for weight, whenever they meet Wigmore's great tests of necessity and trustworthiness" (McEachern on pp. 176-177 of the case cited *supra*).

"As I have said, unwritten oral history and traditions of a House and the culture of a people are admissible out of necessity as exceptions to the hearsay rule because they cannot be proven in any other way. The plaintiffs assert that references to their territory in their adaawk are powerful evidence establishing occupation and use of land over many, many years. The weight to be given to this kind of evidence depends, of course, upon its

trustworthiness. The plaintiffs argue that adaawk or kungax are particularly trustworthy because of their antiquity and because they are authenticated by public statement and restatement in accordance with the practice that what is stated at a feast must be challenged then and there, at once, or not at all. The difficulty with this kind of evidence is the fact that the defendants, by cross-examination, have raised serious questions about many of the basics [sic] tenets of Gitskan and Wet'suwet'en life and history and about the authenticity of the adaawk and kungax. In fact, as the trial progressed, I noticed the plaintiffs seemed to place less and less importance on adaawk and kungax, possibly because they are highly equivocal, or perhaps because the plaintiffs focused more on feasting and scientific evidence. Except in a very few cases, the totality of the evidence raises serious doubts about the reliability of the adaawk and kungax as evidence of detailed history, or land ownership, use or occupation. I say this reluctantly, without intending any affront to the beliefs of these peoples, but I am reminded by many learned authors to be cautious. Trigger warns that tribal societies have little interest in conserving an accurate knowledge of the past over long periods of time. Drs. Bishop and Ray, historical geographers, said in Ex. 1076: 'Even when employed carefully, memory ethnography can only provide totally accurate information for relatively short time spans, usually one hundred years at the very most' (McEachern on p. 180 of the case cited *supra*).

"Admissibility and weight of evidence are two completely different concepts. While I have not been troubled by the former, the doubts I have about the latter preclude me from treating the adaawk and kungax as direct evidence of facts in issue in this case except in a few cases where they could constitute confirmatory proof of early presence in the territory. My reasons are principally threefold. First, I am far from satisfied that there is any consistent practice among the Gitskan and Wet'suwet'en Houses about these matters. The early witnesses suggested that the adaawk were well formulated and the contents constantly sifted and verified. I am not persuaded that this is so. There is evidence that an adaawk is seldom told at feasts; that some chiefs never tell their adaawk; that some chiefs never tell them outside their Houses; that there is little likelihood of dissent; and that the verifying group is so small that they cannot safely be regarded as expressing the reputation of even the Indian community, let alone the large community whose opportunity to dispute territorial claims would be essential to weight. Secondly, the adaawk are seriously lacking in detail about the specific lands to which they are said to relate... Thirdly, the plaintiffs sought to authenticate their adaawk by reference to the work of authors... These adaawk are sprinkled with historical references making them suspect as trustworthy evidence of pre-contact history... Many of these adaawk relate to areas and people from outside the territory but they are part of a body of evidence upon which the plaintiffs rely. These collections demonstrate to my

satisfaction that many adaawk are of dubious value as detailed proof of specific events (or locations) which are believed to have occurred before contact... This in no way reflects upon adaawk and kungax for the spiritual use or value they have to Gitksan and Wet'suwet'en people. I do not purport to pass on that question in any way. All I say is that I do not find them helpful as evidence of use of specific territories at particular times in the past" (McEachern on pp. 180-182 of the case cited *supra*).

"I am unable to accept the adaawk, kungax, and oral histories as reliable bases for detailed history, but they could confirm findings based on other admissible evidence" (McEachern on p. 204 of the case cited *supra*).

6.21.10 Case 10: Delgamuukw (Muldoe) et al. v. R. in Right of British Columbia and Attorney General of Canada. Appeal. Lambert J.A. Western Weekly Reports (1993) 5: pp. 97ff.

"My third observation rests in this passage from the reasons of Chief Justice Dickson, for the Supreme Court of Canada, in *R. v. Simon*, [1985] 2 S.C.R. 387 at 407-408: '...The Micmacs did not keep written records. Micmac traditions are largely oral in nature. To impose an impossible burden of proof would, in effect, render nugatory any right to hunt that a present day Shubenacadie Micmac Indian would otherwise be entitled to invoke based on this Treaty.' It is important to examine evidence given orally, where the memory of the community is an oral memory, in the context of the fact that other forms of evidence are unlikely to be available. The oral evidence should be weighed, like all evidence, against the weight of countervailing evidence and not against an absolute standard, so long as it is enough to support an air of reality" (Lambert on p. 329 of the case cited *supra*).

6.21.11 Case 11: Twinn et al. v. Queen. Federal Court of Canada. Muldoon J. July 6, 1995. (Original Reasons for Judgement).

"Perhaps the Court ought not to have permitted such speculative testimony, but it was not wholly inappropriate to hear from an elderly aboriginal witness who was called and permitted to give 'oral history', despite the rule against hearsay" (Muldoon on p. 18 of the case cited *supra*).

"Mrs. Smallboy was not alone in heaping guilt upon the Europeans and their present day descendants, and this country's later immigrants, for having disturbed the 'idyllic' Indian existence in this continent, but she modified that posture, perhaps without realizing such a retreat from the absolute of her mythology... [there follows a transcript of the examination of the witness in

which she alleges that Indians lived in peace prior to European contact; the Court led her to concede that there was intertribal conflict after all]. To say the Indians 'lived in peace on this land before the white man arrived' is to say that which is not at all accurate, as Mrs. Smallboy disclosed..." (Muldoon on pp. 20-21 of the case cited *supra*).

"...no party or intervener is empowered by mere admission to alter the country's history or its constitution" (Muldoon on p. 35 of the case cited *supra*).

"Again, for emphasis, the Court states that in this quintessentially public-law litigation the parties and interveners simply cannot, by their objections erase, or by their consent validate, the authentic historical record. Although the Morris record is available to be quoted and interpreted, considering its first publication as early after the events described as 1880, it is entirely neutral evidence in this context, in the sense that it is a contemporaneous historical record made and published a century before this litigation" (Muldoon on p. 49 of the case cited *supra*).

"Mr. Roan at first denied that his father applied to the government for permission to transfer to the Ermineskin band so that he could marry an Ermineskin woman. But he recanted when shown exhibit 30(253) which, he had to admit, showed that precisely" (Muldoon on p. 79 of the case cited *supra*).

"Until the Treaty of Wetaskawin, long after the assertion of British (and latterly Canadian) sovereignty when the Cree, Blackfoot and Sarcees ended hostilities, this evidence discloses on a balance of probabilities that, aside from myth, no one knew why there were hostilities; and without any means of keeping a written record the probabilities lead to the conclusion that myth or oral history would not yield any objectively reliable reason or knowledge of the beginning of hostilities. That surely is the trouble with oral history. It just does not lie easily in the mouth of the folk who transmit oral history to relate that *their* ancestors were ever venal, criminal, cruel, mean-spirited, unjust, cowardly, perfidious, bigoted or indeed, aught but noble, brave, fair and generous, etc. etc. In no time at all historical stories, if ever accurate, soon become mortally skewed propaganda, without objective verity. Since the above mentioned pejorative characteristics, and more, are alas common to humanity they must have been verily evinced by everybody's ancestors, as they are by the present day descendants, but no one, including oral historians wants to admit that. Each tribe or ethnicity in the whole human species raises its young to believe that they are 'better' than everyone else. Hence, the wars which have blighted human history. So ancestor advocacy or ancestor worship is one of the most counter-productive, racist, hateful and

backward-looking of all human characteristics, or religion, or what passes for thought. People are of course free to indulge in it - perhaps it is an aspect of human nature - but it is that aspect which renders oral history unreliable. So saying, the Court is most emphatically not mocking or belittling those who assert that, because their ancestors never developed writing, oral history is their only means of keeping their history alive. It would always be best to put the stories into writing at the earliest possible time in order to avoid some of the embellishments which render oral history so unreliable" (Muldoon at pp. 82-83 of the case cited *supra*).

"The Court received Mr. Jacobs' testimony because he had lived among the Sarcee for 63 years which could well be the age of a witness giving oral history..." (Muldoon at p. 86 of the case cited *supra*).

6.22 TREATIES

During treaty negotiations, "Indians normally attached far greater significance to the words spoken than to the treaties written as a result of those talks. Indian speakers began negotiations by recapitulating what had been agreed upon at earlier meetings and even what the previous speaker had said, as a way of imprinting the spoken words on the minds and memories of the audience. 'I cannot write as you do,' a Cherokee headman told the governor of South Carolina in 1751. 'Ny Tounge is my Pen and my Mouth my Paper. When I look upon Writing I am as if I were blind and in the Dark.'" (Calloway 1994:14).

"Europeans, as members of a culture that valued the written word, attached primary importance to the final treaty document rather than to the discussions that preceded it. In order to have a complete record of negotiations, however, they recorded Indian speeches frequently and at length. Indian speeches, translated by European interpreters and written down by European scribes, became part of the formal record of proceedings" (Calloway 1994:14).

"Indians who later saw records of treaty proceedings sometimes objected strenuously to the written account of events and the statements attributed to them by the Europeans. Many more written accounts of treaty proceedings went unchecked: The Indians knew what they said and had little inclination or opportunity to see if the Europeans had got the story straight. In some cases, the deeds and treaty documents that Europeans recorded or concocted were no more than legal instruments to dispossess Indian people of their land. They are not always an accurate record of what was said and done in meetings with Indian peoples, and even less often do they convey a sense of how Native Americans perceived and understood the proceedings" (Calloway 1994:15).

"Something written, or even published, by an Indian, however, does not necessarily represent a more authentic voice than the words attributed to an Indian by a European writer" (Calloway 1994:16).

"Related to differential recognition of events is the variable valorization of events... Essentially, there is agreement that an event had transpired, that something happened, but there is disagreement as to the significance of and consequences following from that event. Much ethnohistorical work on treaties illustrates this differential valorization. For Indians, the treaty-making process was highly ritualized, involved with gift exchange followed by regular alternations of joviality and solemnity. After negotiations were completed, the treaty took on a sacred quality with expectations of eternality, continued reciprocity, and enduring mutual respect. The treaty event constituted a total social fact, in Mauss's terms. For whites, however, treaty making represented a secular, instrumental act, to be concluded as expeditiously as possible. The provisions of the treaty were not always seen as binding and were subject to continual revision, if not outright violation" (Fogelson 1989:142).

"Some first nations, notably the Dene, were convinced that their treaty was a treaty of peace and friendship rather than a land surrender. Other first nations have accepted that their Aboriginal title was extinguished through the treaty process but have insisted that they have treaty rights that go beyond the narrow reading of the written words in the treaty documents. They insist that the spirit of the treaties is their real meaning and that treaty rights are much more valuable than is often thought. The Sioui decision goes some way towards supporting this view" (Kulchyski 1994:9).

[re: R. v. Sioui, S.C.C. (1990)] "Throughout the decision, the approach taken is that 'treaties and statutes relating to Indians should be liberally construed and uncertainties resolved in favour of the Indians'...The primary significance of this case, however, is that it serves to strengthen the value of treaty rights, writing into Canadian jurisprudence the words 'the treaty must...be construed, not according to the technical meaning of its words by learned lawyers, but in the sense in which they would naturally be understood by Indians' (188), from a U.S. Supreme Court decision, *Jones v. Meehan* (1899). Presumably the oral histories of treaty nations are to be accorded some weight in determining the meaning of treaties. This, combined with the 'liberal and generous attitude' to be adopted in interpreting treaties, adds up to a significant victory for treaty nations" (Kulchyski 1994:182-183).

"...the courts should show flexibility in determining the legal nature of a document recording a transaction with the Indians. In particular, they must take into account the historical context and perception each party might have as to the nature of the undertaking contained in the document under consideration. ...once a valid treaty is found to exist, that treaty must in turn be given a just, broad and liberal

construction" (R. v. Sioui, S.C.C. [1990] quoted in Kulchyski 1994:187).

"...ethnological and linguistic research, using oral techniques, sheds light on history and gives it the missing dimension that comes from some understanding of Indian values and procedures. Preliminary study of some 32 translation tapes has already elicited some striking observations. For example, in published accounts of the [Iroquoian] Indian treaties, the usual English phrase for 'alliance' between Indians and colonists is 'the great covenant chain'. The native texts, however, never use the word 'chain' to express the Indian view of alliance; where Chief Thomas uses the image of a chain, he is quoting from the white men who made the first treaties....Again, the exchange of wampum belts was more than a mere formality. It was the wampum string or belt that contained or carried the message. Yet all the white man's written record notes at the end of a speech is simply the cryptic phrase: 'Here a belt.' (Ostry 1978:5-6).

"The S.S.C. has held that 'Indian treaties should be given a large and liberal construction in favour of the Indians'; and that 'treaties and statutes relating to Indians should be liberally construed with doubtful expressions resolved in favour of the Indians': *Simon v. The Queen* (1985), 62 N.R. 366 at 377. These statements were affirmed in *Sparrow...*, again by a unanimous court. The spirit of these judgements and the subsequent affirmations might suggest that where evidence regarding aboriginal rights is equivocal, but not unconvincing, the confines of the law should be extended to resolve evidentiary issues on the side of the aboriginals" (Storow and Bryant 1992:190-191).

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